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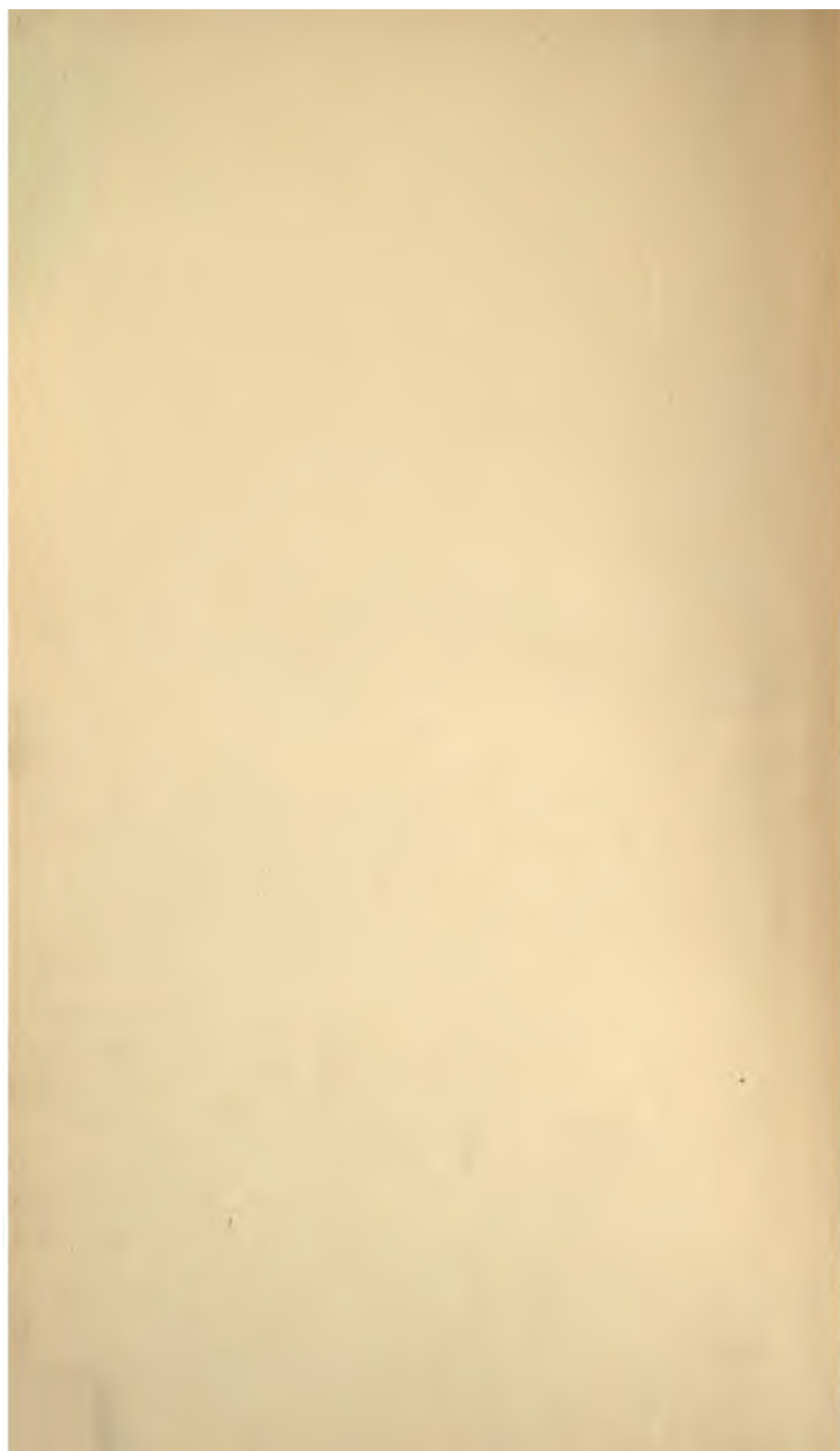




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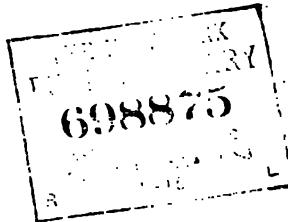
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## PREFACE

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The International Library of Technology is the outgrowth of a large and increasing demand that has arisen for the Reference Libraries of the International Correspondence Schools on the part of those who are not students of the Schools. As the volumes composing this Library are all printed from the same plates used in printing the Reference Libraries above mentioned, a few words are necessary regarding the scope and purpose of the instruction imparted to the students of—and the class of students taught by—these Schools, in order to afford a clear understanding of their salient and unique features.

The only requirement for admission to any of the courses offered by the International Correspondence Schools is that the applicant shall be able to read the English language and to write it sufficiently well to make his written answers to the questions asked him intelligible. Each course is complete in itself, and no textbooks are required other than those prepared by the Schools for the particular course selected. The students themselves are from every class, trade, and profession and from every country; they are, almost without exception, busily engaged in some vocation, and can spare but little time for study, and that usually outside of their regular working hours. The information desired is such as can be immediately applied in practice, so that the student may be enabled to exchange his present vocation for a more congenial one or to rise to a higher level in the one he now pursues. Furthermore, he



wishes to obtain a good working knowledge of the subjects treated in the shortest time and in the most direct manner possible.

In meeting these requirements, we have produced a set of books that in many respects, and particularly in the general plan followed, are absolutely unique. In the majority of subjects treated the knowledge of mathematics required is limited to the simplest principles of arithmetic and mensuration, and in no case is any greater knowledge of mathematics needed than the simplest elementary principles of algebra, geometry, and trigonometry, with a thorough, practical acquaintance with the use of the logarithmic table. To effect this result, derivations of rules and formulas are omitted, but thorough and complete instructions are given regarding how, when, and under what circumstances any particular rule, formula, or process should be applied; and whenever possible one or more examples, such as would be likely to arise in actual practice—together with their solutions—are given to illustrate and explain its application.

In preparing these textbooks, it has been our constant endeavor to view the matter from the student's standpoint, and to try and anticipate everything that would cause him trouble. The utmost pains have been taken to avoid and correct any and all ambiguous expressions—both those due to faulty rhetoric and those due to insufficiency of statement or explanation. As the best way to make a statement, explanation, or description clear is to give a picture or a diagram in connection with it, illustrations have been used almost without limit. The illustrations have in all cases been adapted to the requirements of the text, and projections and sections or outline, partially shaded, or full-shaded perspectives have been used, according to which will best produce the desired results. Half-tones have been used rather sparingly, except in those cases where the general effect is desired rather than the actual details.

It is obvious that books prepared along the lines mentioned must not only be clear and concise beyond anything

heretofore attempted, but they must also possess unequaled value for reference purposes. They not only give the maximum of information in a minimum space, but this information is so ingeniously arranged and correlated, and the indexes are so full and complete, that it can at once be made available to the reader.

Six volumes of this library are devoted to legal subjects. This volume, the fifth of the series, contains a summary of the statute laws of various jurisdictions that relate to many of the subjects treated in the preceding four volumes. A person who is conversant with the principles of law is the possessor of very useful knowledge for practical purposes, and he may enhance his capabilities of correctly applying those principles by knowing the provisions of statutory enactments of various states and districts, which vary and qualify, and in some respects alter, the effect of those principles. It is for this reason that the present volume on statute law is included in the set. The volume also serves the purpose of increasing the value of the series as a reference library.

The method used in numbering the pages and articles is such that each subject or part, when the subject is divided into two or more parts, is complete in itself; hence, in order to make the index intelligible, it was necessary to give each subject or part a number. This number is placed at the top of each page, on the headline, opposite the page number; and to distinguish it from the page number it is preceded by the printer's section mark (§). Consequently, a reference such as § 37, page 26, will be readily found by looking along the inside edges of the headlines until § 37 is found, and then through § 37 until page 26 is found.

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# APPENDIX

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## ACKNOWLEDGMENTS

**Within the State.**—Usually the officer authorized to take acknowledgments of deeds and other instruments may do so only within the county or district over which his official duties extend. Generally, the acknowledgment must be under the hand of the official, and the seal of his office, or the seal of the court in case of the judge or the clerk of a court.

**Without the State, But Within the United States.** Generally, the officer taking the acknowledgment must attach his official seal, or the seal of the court of which he is an official. In the case of notaries, justices of the peace, and other minor officers, there must be attached a certificate of authentication from the clerk of the court, or the county clerk, of the proper county, stating that the officer taking the acknowledgment was at the time duly authorized to take proofs and acknowledgments of deeds of lands in said state, territory, or district, that the clerk is well acquainted with the handwriting of such officer, and that he verily believes that the signature affixed to such certificate of proof or acknowledgment is genuine.

**Without the United States.**—Acknowledgments before officers in foreign countries must be under their official seal, or the seal of the court in case of the judge or the clerk of a court. When the acknowledgment is taken by a notary, mayor, or other minor official, there is frequently required a certificate of authentication from some consular or other official of the United States.

**Separate Examination of Wife.**—In case of joint conveyances by husband and wife, it is usually no longer necessary that the wife be examined separately and apart from her husband; but she acknowledges the same as any other person, except that she be styled *wife*. Where the separate examination of the wife is still required in the acknowledgment of deeds, it will be noted.

**Alabama.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of the supreme court,

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## ACKNOWLEDGMENTS

circuit courts, and any clerk thereof; chancellor and a register in chancery; judge of the courts of probate; notary public; justice of the peace. *Out of the state and within the United States*, by a judge or clerk of any federal court; judge of any court of record of any state; notary public; commissioner for Alabama appointed by the governor of Alabama. *Out of the United States*, by a judge of any court of record; mayor or chief magistrate of any city, town, borough, or county; notary public; any diplomatic, consular, or commercial agent of the United States. The separate acknowledgment of the wife is required to convey the homestead.

**Alaska.**—Acknowledgments of deeds and other instruments may be taken *within the district*, before any judge, clerk of the district court, notary public, or commissioner within the district. *Out of the district and within the United States*, before any judge of a court of record; justice of the peace; notary public; or other officer authorized by the laws of any state, territory, or district to take acknowledgments of deeds therein; or before any commissioner appointed for such purpose. *Out of the United States*, before any notary public therein; minister plenipotentiary; minister extraordinary; minister resident; *charge d'affaires*; commissioner or consul of the United States appointed to reside therein. If taken before a notary public, his seal shall be affixed thereto.

**Arizona.**—Acknowledgments of deeds and other instruments may be taken *within the territory*, by a clerk of any court having a seal; county recorder; notary public; justice of the peace. *Out of the territory and within the United States*, by a clerk of any court of record having a seal; notary public; commissioner for Arizona appointed by the governor of Arizona. *Out of the United States*, by any officer authorized to execute a commission to take depositions. A notary public must give the date of the expiration of his commission.

**Arkansas.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of the supreme or circuit courts or clerk thereof; clerk of any court of record; notary public; justice of the peace. *Out of the state and within the United States*, by any court of the United States, state, or territory, having a seal, or the clerk thereof; the mayor or chief officer of any city or town having a seal; notary public; commissioner for Arkansas appointed by the governor of Arkansas. *Out of the United States*, by any court of any state, kingdom, or empire, having a seal; the mayor or chief officer of any city or town having an official seal; any officer of any foreign country, who, by its laws, is authorized to take probate of the conveyance of real estate of his own country, if he have an official seal; consuls of the United States. In joint deeds of husband and wife, the wife's acknowledgment must be separate and apart.

**California.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice of the supreme court; judge of a superior court; judge of a police or inferior court; judge or clerk of a court of record; recorder of a city; court commissioner; county recorder; notary public; justice of the peace. If the acknowledgment be made before a justice of the peace, to be used in any other county than the one in which the justice resides, it must be accompanied by a certificate of authentication from the clerk of the county. *Out of the state and within the United States*, by a justice, judge, or clerk, of any court of record of the United States, or of any state; commissioner for California appointed by the governor of California; notary public; any other officer of the state where the acknowledgment is made authorized by its laws to take such proof or acknowledgment. *Out of the United States*, by a minister, commissioner, or *charge d'affaires*, of the United States in the country where the acknowledgment is made; consul, vice-consul, or consular agent of the United States, resident in the country where the acknowledgment is made; judge of a court of record in the country where the acknowledgment is made; commissioner of deeds for California; a notary public.

**Colorado.**—Acknowledgment of deeds and other instruments may be taken *within the state*, by a judge, clerk, or deputy clerk of any court of record, such judge, clerk, or deputy clerk severally certifying such acknowledgment under the seal of such court respectively; clerk and recorder of any county or his deputy, certifying the same under the seal of such county; notary public; justice of the peace within the county in which the property is situated. *Out of the state and within the United States*, by a secretary of any state or territory, under the seal of such state or territory; clerk of any court of record having a seal, under the seal of such court; notary public of any state or territory, under his notarial seal; commissioner of deeds for Colorado; any other officer authorized by the laws of any such state or territory to take and certify such acknowledgment, provided there shall be affixed to the certificate of such officer, other than those above enumerated, a certificate by the clerk of some court of record of the county, city, or district wherein such officer resides, under the seal of such court, that the person certifying such acknowledgment is the officer he assumes to be, that he has authority by the law of such state or territory to take and certify such acknowledgment, and that the signature of such officer to the certificate of acknowledgment is the true signature of such officer. *Out of the United States*, by any court of record of any foreign republic, kingdom, empire, state, principality, or province having a seal, the acknowledgment being certified by the judge or justice of such court to have been made before such court, and such certificate being attested by the seal of such court; mayor or some other chief

officer of any city or town having a seal, such mayor or other officer certifying the same under such seal; consul of the United States within such foreign country, certifying the same under the consular seal. The wife's acknowledgment must be separate and apart in a conveyance of the homestead.

**Connecticut.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of a court of record of the state or of the United States; commissioner of the school fund; judge of probate; clerk of the superior, common pleas, or district court; town clerk or assistant town clerk; commissioner of the superior court; notary public; justice of the peace. *Out of the state and within the United States*, by a commissioner for Connecticut appointed by the governor of Connecticut; any officer authorized to take acknowledgments of deeds in the state where the acknowledgment is taken. *Out of the United States*, by a United States consul; notary public; justice of the peace. When taken by a notary public or a justice of the peace, the certificate of the county clerk should be annexed.

**Delaware.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of a court of record; chancellor; notary public; or two justices of the peace. *Out of the state and within the United States*, by a judge of a district or circuit court of the United States; chancellor or any judge of a court of record; mayor or chief officer of any city or borough, certified under the hand of such chancellor, judge, mayor, or officer, and the seal of his office, court, city, or borough; in open court, certified under the hand of the clerk and seal of the court; notary public, in which case a certificate of the clerk of the court of the county where the notary resides should be attached, certifying that he was duly commissioned; commissioner of deeds for Delaware appointed by the governor of Delaware. *Out of the United States*, by a consul-general, consul, or commercial agent, of the United States. In joint deeds of husband and wife, the wife must be examined separately and apart.

**District of Columbia.**—Acknowledgments of deeds and other instruments may be made, *in the district*, before any judge of any court of the district; clerk of the district supreme court; a justice of the peace; notary public; or recorder of deeds; of the district. *Out of the district and within the United States*, before any judge of any court of record and of law; chancellor of a state; judge or justice of the supreme, circuit, or territorial courts of the United States; any justice of the peace; a notary public; or commissioner of deeds for the district appointed by the President of the United States; provided, that the certificate of acknowledgment, made by any officer of the state or territory, shall be accompanied by the certificate of the register, clerk, or other public officer, having official cognizance of the fact that the



officer taking such acknowledgment was the officer he professed to be. *Out of the United States*, before any judge; notary public; secretary of legation or vice-consul general, consular officer, actual or acting, of the United States; and when made before any other officer than a secretary of legation, consular officer, actual or acting, the official character of the person taking the acknowledgment shall be certified to in the manner prescribed for acknowledgments out of the district but in the United States.

**Florida.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of the circuit court; notary public; justice of the peace. *Out of the state and within the United States*, by a judge or clerk of a court of record; notary public; justice of the peace; judge of any court in the United States, or any state, territory, or district having a seal; commissioner for Florida appointed by the governor of Florida. *Out of the United States*, by any commissioner of deeds appointed by the governor of this state to reside in such country; notary public of such foreign country having a seal; any minister, *charge d'affaires*, consul-general, consul, vice-consul, commercial agent, or vice-commercial agent, of the United States appointed to reside in such country. In joint deeds of husband and wife, the wife must be examined separately and apart.

**Georgia.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a clerk of the superior court; judge of any court of record; justice of the peace; notary public. *Out of the state and within the United States*, by a judge of a court of record; notary public; commissioner for Georgia appointed by the governor of Georgia. If taken before a judge, the acknowledgment must be accompanied by a certificate of the genuineness of the signature of the judge by the clerk, under the seal of such court. If taken before a notary public, the certificate of a clerk of a court of record under the seal of the court should be attached, showing the notary to be regularly commissioned and authorized by law to attest deeds. *Out of the United States*, by a consul or vice-consul of the United States. In joint deeds of husband and wife, the wife must be examined separately and apart.

**Idaho.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court having a seal; recorder of the proper county; notary public; justice of the peace. *Out of the state and within the United States*, by a judge or clerk of any court of the United States, or of any court of any state or territory having a seal; commissioner for Idaho appointed by the governor of Idaho; any officer authorized to take acknowledgments by the laws of the place where taken. *Out of the United States*, by a judge or clerk of any court of any state, kingdom, or empire, having a seal; notary public; minister, commissioner, or consul, of the United States



appointed to reside therein. A married woman's acknowledgment must be taken separately and apart.

**Illinois.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a notary public; United States commissioner, who shall affix his seal; master in chancery; circuit or county clerk; justice of the peace, duly certified to, if out of the county where the land lies; any court of record having a seal, or any judge, justice, or clerk thereof. If the acknowledgment be taken before the court or the clerk thereof, the seal of the court must be affixed. *Out of the state and within the United States*, by a justice of the peace, duly certified to by the clerk of the proper court; notary public; United States commissioner; commissioner of deeds for Illinois appointed by the governor of Illinois; mayor of a city or clerk of a county, such officer affixing his official seal; judge, justice, or clerk, of the supreme, circuit, superior, district, county, or common pleas court of any of the United States or territories thereof; or the acknowledgment may be in conformity with the laws of the state where it is taken, in which case a certificate of conformity from a clerk of a court of record, under the seal of such court, is required. *Out of the United States*, by any court having a seal; mayor or chief officer of any city or town having a seal; minister, secretary of legation, or consul, of the United States in any foreign country, attested by his official seal; commissioner of deeds for Illinois; any officer authorized by the foreign law to take acknowledgments. If the latter have no official seal, proof that he is duly authorized is required. The acknowledgment may be taken in conformity with the foreign law, and so certified by any consul or minister of the United States, under his official seal.

**Indian Territory.**—Acknowledgments of deeds and other instruments may be taken *within the territory*, by a judge or clerk of the United States court; United States commissioner; notary public. *Out of the territory and within the United States*, by a judge or clerk of any court of the United States, or any state or territory; notary public. *Out of the United States*, by a United States minister or consul.

**Indiana.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court of record; auditor; recorder; county surveyor; mayor of a city; notary public; justice of the peace. *Out of the state and within the United States*, by a judge or clerk of a court of record; justice of the peace; auditor; recorder; notary public; mayor of a city; commissioner of deeds for Indiana appointed by the governor of Indiana; any officer having power to take acknowledgments in the state or territory where the acknowledgment is taken. *Out of the United States*, by a minister, *charge d'affaires*, or consul, of the United States; or any officer there

authorized to take acknowledgments. A notary public must give the date of the expiration of his commission.

**Iowa.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a court having a seal, or a judge or a clerk thereof; county auditor or his deputy; deputy clerk of a court; notary public; justice of the peace. *Out of the state and within the United States*, by a court of record, or the officer holding the seal thereof; notary public; justice of the peace, duly certified to by the proper authority as to the official character of such justice; commissioner of deeds for Iowa appointed by the governor of Iowa. *Out of the United States*, by an ambassador, minister, secretary of legation, consul, *charge d'affaires*, consular agent, or any other officer of the United States in a foreign country who is authorized to issue certificates under the seal of the United States; any officer in a foreign country who is authorized by the laws thereof to take acknowledgments, in which case, however, the certificate must be authenticated by one of the above-named officers of the United States.

**Kansas.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a court having a seal, or the judge, justice, or a clerk thereof; county clerk; register of deeds; the mayor or the clerk of any corporate city; notary public; justice of the peace. *Out of the state and within the United States*, by any court of record, or the clerk or the officer holding the seal thereof; notary public; justice of the peace, duly certified to; commissioner for Kansas appointed by the governor of Kansas. *Out of the United States*, by any consul of the United States in any foreign port or country. A notary public must give the date of the expiration of his commission.

**Kentucky.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a county clerk; notary public. *Out of the state and within the United States*, by a judge, clerk, or deputy clerk, of a court of record; mayor of a city; the secretary of state; commissioner to take acknowledgments of deeds; notary public. *Out of the United States*, by a minister, consul, or secretary of legation, of the United States; the secretary of foreign affairs; judge of a superior court of the nation where the acknowledgment is taken. The deed of a married woman must be acknowledged, and she must be examined separately and apart.

**Louisiana.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a clerk or deputy clerk of a district court, except the parish of Orleans, said clerk being *ex officio* recorder of mortgages and conveyances; notary public. *Out of the state and within the United States*, by a notary public; commissioner of Louisiana appointed by the governor of Louisiana; any officer authorized by the laws of the state to take acknowledgments in the state where the



acknowledgment is taken. In the latter case, the signature and authority of such officer must be properly certified to by a Louisiana commissioner, or by the governor and the secretary of state, under the great seal of the state. *Out of the United States*, by an ambassador, minister, *charge d'affaires*, secretary of legation, consul-general, consul, vice-consul, or commercial agent, of the United States; any official authorized by the laws thereof to take acknowledgments in the country where the acknowledgment is taken. In the latter case, such acknowledgment must be accompanied by an attestation of one of the American officers just mentioned, that such officer has such authority and that his signature is genuine. The wife must be examined separately and apart, and a full statement of the explanation of her rights must appear in the acknowledgment.

**Maine.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a notary public; justice of the peace. *Out of the state and within the United States*, by a notary public; commissioner for Maine appointed by the governor of Maine; clerk of a court of record having a seal, which must be affixed. *Out of the United States*, by a United States minister, or consul; notary public.

**Maryland.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of the orphans' court, of the circuit court of any county, of the superior court, of the court of common pleas, or of the city, or circuit, court of Baltimore city; notary public; justice of the peace. If acknowledged before a justice of the peace within the state, but out of the county or city in which the real estate or any part of it lies, the official character of the justice of the peace must be certified to by the clerk of the circuit court of the county, or the superior court of Baltimore city, under the official seal. *Out of the state and within the United States*, by a judge of any United States court; judge of any court of any state or territory, having a seal; notary public; commissioner for Maryland appointed by the governor of Maryland. *Out of the United States*, by a minister, consul-general, consul, deputy consul, vice-consul, consular agent, or consular officer, of the United States.

**Massachusetts.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a notary public; justice of the peace; or a special commissioner. *Out of the state and within the United States*, by a notary public; justice of the peace; magistrate or commissioner appointed for the purpose by the governor of Massachusetts; any officer of such state, territory, or district, authorized by the laws thereof to take the proof and acknowledgment of deeds. In the latter case, there shall be subjoined or attached to the certificate of proof or acknowledgment, signed by such officer, a certificate of the secretary of state of the state or territory in which such officer resides, under the

seal of such state or territory, or a certificate of the clerk of a court of record of such state, territory, or district in the county in which said officer resides or in which he took such proof or acknowledgment, under the seal of such court, stating that such officer was, at the time of taking such proof of acknowledgment, duly authorized to take acknowledgments and proofs of such deeds of land in said state, territory, or district, and that said secretary of state or clerk of court is well acquainted with the handwriting of such officer, and that he verily believes that the signature attached to such certificate of proof or acknowledgment is genuine. *Out of the United States*, by a justice; notary; magistrate; commissioner, ambassador, minister, consul, vice-consul, *charge d'affaires*, or consular agent, of the United States.

**Michigan.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or commissioner of a court of record; notary public; justice of the peace. *Out of the state and within the United States*, by a notary public; commissioner for Michigan appointed by the governor of Michigan; any officer of the state or territory where the acknowledgment is taken authorized by the laws thereof to take acknowledgments. Unless the acknowledgment be taken before a notary public, who certifies thereto under his seal of office, there must be subjoined or attached to the certificate of acknowledgment a certificate of the secretary of state of the state or territory in which the officer taking the acknowledgment resides, under the seal of such state or territory, or the certificate of the clerk of a court of record of such state, territory, or district, in the county in which the officer taking the acknowledgment resides, or in which he took such acknowledgment, under the seal of such court, stating that such officer was at the time of taking such acknowledgment duly authorized to take acknowledgments and proofs of deeds of lands in said state, territory, or district, and that said secretary of state or clerk of court is well acquainted with the handwriting of such officer, and that he verily believes that the signature affixed to such acknowledgment is genuine. *Out of the United States*, by a minister, consul, vice-consul, *charge d'affaires*, or consular agent, of the United States, resident in any foreign country or port, certified by him under his seal of office.

**Minnesota.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of the supreme, district, or probate court, or any clerk of said courts; clerk of the United States circuit and district courts for the district of Minnesota; deputy clerks of the district courts; clerk of the municipal courts for St. Paul, Minneapolis, and Stillwater; a member of the legislature; register of deeds; court commissioner; county auditor; town clerk; city clerk; city recorder; recorder of a village; notary public; justice of the peace. When such officer has a seal of office, he must affix such seal to the certificate of acknowledgment. *Out of the state and within the United*



*States*, by the chief justice or an associate justice of the supreme court of the United States; judge of the district court of the United States; judge or justice of the supreme, superior, circuit, or other courts of record of any state, territory, or district within the United States, or before a clerk of the several courts above mentioned; justice of the peace; notary public; commissioner for Minnesota appointed by the governor of Minnesota. No acknowledgment taken by any such officer shall be valid unless taken within some place or territory for which he shall have been elected or appointed to such office, or to which the jurisdiction of the court to which he belongs shall extend. *Out of the United States*, by a minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul, of the United States, appointed to reside in any foreign country; notary public, under his official seal.

**Mississippi.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge of a United States court; judge of the supreme court of Mississippi; judge of the circuit court; chancellor; clerk of a court of record; mayor of any city, town, or village; a member of a board of supervisors, whether the property conveyed be in his county or not; notary public; justice of the peace. *Out of the state and within the United States*, by the chief justice of the United States or an associate justice of the supreme court of the United States; circuit or district judge of the United States, or any other United States judge; judge or justice of the supreme court or superior court of any state; justice of the peace in the state or territory where taken, the official character to be certified under the seal of some court of record having a seal of office in such a state or territory; commissioner for Mississippi appointed by the governor of Mississippi. *Out of the United States*, by any court of record; the mayor or chief magistrate of any city, borough, or corporation, of such foreign country in which the witness resides, or may be; ambassador, or foreign minister, secretary of legation, or consul, of the United States to the foreign country in which the party or witness may reside or be.

**Missouri.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by any court having a seal, or a judge, justice, or clerk thereof; notary public; justice of the peace of the county where the real estate conveyed or affected is situated. *Out of the state and within the United States*, by a notary public; a court of the United States or of any state or territory having a seal, or the clerk thereof; commissioner for Missouri appointed by the governor of Missouri. *Out of the United States*, by a court of any state, kingdom, or empire, having a seal; the mayor or chief officer of any city or town having an official seal; notary public; minister or consular officer of the United States.

**Montana.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice or clerk of the supreme court; judge of the district court; clerk of a court of record; county clerk; notary public; justice of the peace. *Out of the state and within the United States*, by a justice or clerk of a court of record of the United States, or of any state or territory; notary public; commissioner for Montana appointed by the governor of Montana; any officer of a state authorized by the laws of that state to take acknowledgments. *Out of the United States*, by a notary public; commissioner appointed by the governor of Montana under special statutes; judge of a court of record; United States minister, commissioner, *charge d'affaires*, consul, vice-consul, or consular agent.

**Nebraska.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court, or deputy clerk in the name of his principal; the secretary of state; notary public; justice of the peace. *Out of the state and within the United States*, by a commissioner for Nebraska appointed by the governor of Nebraska; any officer authorized by the laws of the state or territory where the acknowledgment is taken. When taken before an officer not having a seal, the clerk of a court of record must certify that he was such officer, that the officer's signature is genuine, and that the instrument is executed and acknowledged according to the laws of the state where taken. *Out of the United States*, by a notary public; minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, consul, or commercial agent, of the United States. A notary public must state the date of the expiration of his commission.

**Nevada.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court having a seal; county recorder; notary public; justice of the peace. When the acknowledgment is taken before a justice of the peace in any other county than that in which the real estate is situated, the same shall be accompanied by a certificate of the clerk of the district court of such county as to the official character of the justice taking the proof or acknowledgment and the authenticity of his signature. *Out of the state and within the United States*, by a judge or clerk of a United States court, or of a court of any state or territory, having a seal; notary public; justice of the peace, duly certified to by the clerk of a court of record having a seal; commissioner for Nevada appointed by the governor of Nevada. *Out of the United States*, by a judge or clerk of a court of any state, kingdom, or empire, having a seal; notary public; minister, commissioner, or consul, of the United States. The wife must be examined separately and apart.

**New Hampshire.**—Acknowledgments of deeds and other instruments may be taken within the United States, by a notary public; justice of the peace. *Out of the state and within the United States*,



by a notary public; justice of the peace, certified to by the clerk of a court of record or by the secretary of state; commissioner of New Hampshire appointed by the governor of New Hampshire. *Out of the United States*, by a minister or consul of the United States.

**New Jersey.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by the chancellor; justice of the supreme court; master in chancery; judge of the court of common pleas; commissioner of deeds; clerk of the court of common pleas, or register of deeds while in office, provided he affix the words *county clerk* or *register of deeds* during his term of office. *Out of the state and within the United States*, by the chief justice of the United States; judge of the United States supreme, circuit, or district, court; chancellor of the state or territory where the acknowledgment is taken; judge of the supreme, superior, circuit, or district, court of the state (all the above without the seal of the office or the court); mayor or other chief magistrate of a city, under the seal of said city; master in chancery of New Jersey; judge of a court of common pleas, certified to by the great seal of the state or the seal of a county court; judge of any court of record; commissioner of deeds appointed by the governor of New Jersey; any officer of the state or territory where the acknowledgment is taken, authorized by the laws of the said state or territory, duly certified by the great seal of the state or territory, or by the seal of the court of the county in which it was taken. *Out of the United States*, by an ambassador, minister, *charge d'affaires*, or other representative of the United States; consul or vice-consul, certified under the official seal of said consul or vice-consul; master in chancery of New Jersey; any court of law; mayor or other chief magistrate of any city, borough, or any corporation of a foreign kingdom, state, nation, or colony, certified by said court, mayor or other chief magistrate, in the manner such acts are usually authenticated. In joint deeds of husband and wife, the wife must be examined separately and apart.

**New Mexico.**—Acknowledgments of deeds and other instruments may be taken *within the territory*, by a clerk of the district court; judge or clerk of the probate court using the probate seal; notary public; justice of the peace. *Out of the territory and within the United States*, by a clerk of some court of record having a seal; notary public; commissioner of deeds duly appointed under the laws of New Mexico. *Out of the United States*, by a notary public; minister, commissioner, or *charge d'affaires*, of the United States, resident and accredited in the country where the acknowledgment is made; consul-general, consul, vice-consul, deputy consul, or consular agent, of the United States, resident of the country where the acknowledgment is made.

**New York.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice of the supreme court

anywhere; within his official district by the following: judge, clerk, deputy clerk, or special deputy clerk, of a court; mayor or recorder of a city; surrogate; special surrogate; special county judge; commissioner of deeds; notary public; justice of the peace. *Out of the state and within the United States*, by a judge of the supreme, circuit, or district, court of the United States; judge of the supreme, superior, or circuit, court of the state; mayor of a city; commissioner of deeds; any officer authorized by the laws of the state or territory where the acknowledgment is taken to take acknowledgments. *Out of the United States*, by an ambassador, minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, consul-general, vice-consul-general, deputy consul-general, consul, vice-consul, deputy consul, consular or vice-consular agent, commercial or vice-commercial agent, of the United States, residing within the country; commissioner appointed by the governor and acting within his jurisdiction, and a person specially authorized by a commission under seal of the supreme court. Also, in Canada, any judge of a court of record, or any officer authorized by Canadian laws; in the United Kingdom or its dominions, before the mayor, provost, or other chief magistrate, of a city or town.

**North Carolina.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court of record; notary public; justice of the peace. If the acknowledgment be taken by a justice of the peace, it must be duly certified to by the clerk of some court of record. *Out of the state and within the United States*, by a judge or clerk of a court of record; notary public; mayor of a city, under the seal of the city; justice of the peace, duly certified to by the clerk of a court of record; commissioner appointed under a *dedimus* of a clerk of the superior court under seal; commissioner of affidavits for North Carolina appointed by the governor of North Carolina. *Out of the United States*, by a chief magistrate of a city; ambassador, minister, consul, or commercial agent, of the United States. In joint deeds of husband and wife, the wife must be examined separately and apart.

**North Dakota.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice, judge, or clerk of a court of record; mayor of a city; recorder of deeds; deputy judge, justice of the peace; all such officers are qualified to take acknowledgments within their several jurisdictions only. *Out of the state and within the United States*, by a justice, judge or clerk of a court of record of the United States or of any state or territory having jurisdiction; commissioner for North Dakota appointed by the governor of North Dakota; any officer of the state or territory where the acknowledgment is made authorized by its laws to take such acknowledgments. *Out of the United States*, by a minister plenipotentiary, *charge d'affaires*, consul, vice-consul, or consular agent of the United States, or any officer accredited in the country where the acknowledgment is made, judge of



a court of record of the country where the acknowledgment is made; notary public of such country. A notary public must state the date of the expiration of his commission.

**Ohio.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court of record; county auditor; county surveyor; mayor of a city; notary public; justice of the peace. *Out of the state and within the United States*, by a commissioner for Ohio appointed by the governor of Ohio; any officer authorized by the laws of the state to take acknowledgments in the state where the acknowledgment is taken. *Out of the United States*, by a consul of the United States resident in a foreign country. No proof of the official character of the officer taking acknowledgment is required.

**Oklahoma.**—Acknowledgments of deeds and other instruments may be taken *within the territory*, by a judge or clerk of a court of record; mayor of a city; register of deeds; notary public; justice of the peace of the county where the land conveyed is situated. *Out of the territory and within the United States*, by a judge or clerk of a court of record; notary public; commissioner of deeds appointed by the governor of Oklahoma; any officer duly authorized by the laws of the state or territory where the acknowledgment is taken. *Out of the United States*, by a judge of a court of record; notary public; minister, consul, or consular agent, of the United States.

**Oregon.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of the supreme court; county judge or a county clerk; notary public; justice of the peace. *Out of the state and within the United States*, by a judge of a court of record; justice of the peace; notary public; commissioner for Oregon appointed by the governor of Oregon; any officer authorized to take acknowledgments in the state or territory where the acknowledgment is taken. If the acknowledgment be taken by any officer other than a commissioner of deeds for the state of Oregon, or a notary public certified under his notarial seal, there must be attached a certificate of the clerk of a court of record to the effect that such officer is authorized by law to take acknowledgments, that his signature is genuine, and that the instrument is executed and acknowledged in accordance with the laws of that state. *Out of the United States*, by a minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul, of the United States; notary public; any officer authorized to take acknowledgments in the country where such acknowledgment is taken.

**Pennsylvania.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice of the supreme court; judge of a court of common pleas; recorder of deeds; notary public; justice of the peace; mayor or recorder or any alderman

or magistrate, of the cities of Philadelphia, Pittsburg, Allegheny, Scranton, Carbondale, Williamsport, and Lock Haven. A notary public may take acknowledgments anywhere within the state, but no one of the aforesaid local officers can take an acknowledgment outside of his own county.

Acknowledgments of deeds and other instruments of writing executed by corporations may be made by attorneys in fact before any person authorized to take acknowledgments. Separate acknowledgments by married women are unnecessary. Power is also given to United States commissioners to administer oaths and affirmations, take affidavits and depositions to be used in any court of this state or elsewhere, to take acknowledgments and proofs of all deeds \* \* \* and other instruments of writing touching any land \* \* \* within or without the state, and to take separate acknowledgments of any *seme covert* relating to the same.

*Out of the state and within the United States*, by a judge of any court of record; mayor or chief magistrate of a city or town where the acknowledgment is taken; notary public; commissioner for Pennsylvania appointed by the governor of Pennsylvania; any officer or magistrate of the state where the instrument is executed authorized by the laws of said state to take the acknowledgment of deeds or other instruments of writing therein, the proof of such authority to be the certificate of the clerk or prothonotary of any court of record in such state that the officer or magistrate so taking such acknowledgment is duly qualified by law to take the same.

*Out of the United States*, by an ambassador or other public minister of the United States under his official seal; consul or vice-consul of the United States under consular seal; deputy consul, commercial agent, deputy commercial agent, or consular agent, of the United States, under the official seal of such officer; notary public; commissioner appointed by the governor of Pennsylvania. When the person making the acknowledgment is in the military service of the United States, any person in the military service of the United States holding a commission, not inferior to that of major, from the governor of Pennsylvania, may take such acknowledgment. Acknowledgments before a major or other higher officer of the United States army in Porto Rico, Cuba, Philippine Islands, or other possessions of the United States, or before any civil officer in the service of the United States, shall be valid and entitled to be recorded. The separate examination of the wife is not necessary. A notary public must state the date of the expiration of his commission.

**Rhode Island.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice or judge of a court of record; state senator; mayor; town clerk; recorder of deeds; notary public; justice of the peace. *Out of the state and within the United*

*States*, by a judge of a court of record; mayor; notary public; justice of the peace; commissioner for Rhode Island appointed by the governor of Rhode Island. *Out of the United States*, by an ambassador, minister, *charge d'affaires*, consul, vice-consul, or commercial agent, of the United States; commissioner appointed by the governor of Rhode Island.

**South Carolina.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a trial justice; notary public; any other officer competent to administer an oath. *Out of the state and within the United States*, by a notary public; clerk of a court of record; commissioner for South Carolina appointed by the governor of South Carolina; commissioner appointed by *dedimus* issued by the court of common pleas of the county in which the instrument is to be recorded. Where proof is taken before a notary public, he must attach his seal and also a certificate, from the clerk of the court of the county where he resides, as to his official character. *Out of the United States*, by a consul, vice-consul, or any consular agent, of the United States; or by *dedimus* as aforesaid. Married women must relinquish dower, and must acknowledge the same separately, if within the state, in open court, or before any judge of the court of common pleas, justice of the supreme court, judge of probate, clerk of the court of common pleas, or notary public; or, if without the state, before one of the officers aforesaid.

**South Dakota.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice, judge, or clerk of a court of record; mayor of a city; register of deeds; notary public; justice of the peace. All officers are authorized to take acknowledgments within their several jurisdictions only. *Out of the state and within the United States*, by a justice, judge, or clerk of a court of record of the United States, or any state or territory; notary public; commissioner for South Dakota appointed by the governor of South Dakota; any officer of the state or territory where acknowledgment is made authorized by its laws to take acknowledgments. *Out of the United States*, by a minister, commissioner, *charge d'affaires*, consul, vice-consul, or consular agent of the United States resident in the country where the acknowledgment is made; judge of a court of record of the country where the acknowledgment is made; notary public of such country.

**Tennessee.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a county court, or a deputy county clerk; notary public. Where a married woman is too old or sick, or from any cause unable to appear before the clerk, a justice specially commissioned by the county court may take the acknowledgment. *Out of the state and within the United States*, by a

judge or clerk of a court of record; notary public; commissioner for Tennessee appointed by the governor of Tennessee. If the acknowledgment be taken before a judge, he certifies under his own name, his clerk certifying to his official character as judge under his seal of office; if before a clerk, his official character must be certified to by the judge of the court of which he is clerk. *Out of the United States*, by a commissioner for Tennessee; notary public; minister, ambassador, or consul, of the United States in such country, under his seal. The colonel, lieutenant-colonel, major, or commanding officer, of a regiment to which a soldier or officer belongs in the regular or volunteer corps of the United States army, when in a foreign country, is qualified to take the acknowledgment of such soldier or officer. The wives of such soldiers and officers, or any person in the service of the United States, may acknowledge in the same way.

**Texas.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a clerk of the district court; judge or clerk of the county court; notary public, only within his own county. *Out of the state and within the United States*, by a clerk of a court of record having a seal; notary public; commissioner of deeds for the state of Texas. *Out of the United States*, by a minister, commissioner, *charge d'affaires*, consul, or other consular officer, of the United States; notary public. The wife must be examined separately and apart.

**Utah.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court having a seal; county recorder; county clerk; notary public. *Out of the state and within the United States*, by a judge or clerk of a court of the United States or a court of record of a state or territory; notary public; commissioner for the state of Utah appointed by the governor of Utah. *Out of the United States*, by a judge or clerk of a court having a seal; notary public; ambassador, minister, commissioner, or consul, of the United States.

**Vermont.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a justice of the peace; notary public; master in chancery; town clerk; county clerk; judge or register of probate. *Out of the state and within the United States*, by a justice of the peace; magistrate; notary public; commissioner for Vermont appointed by the governor of Vermont; any other officer by the laws of any other state or territory authorized to take acknowledgments of deeds in the state or territory where the acknowledgment is taken. *Out of the United States*, by a commissioner appointed by the governor for the purpose; minister, *charge d'affaires*, consul, or vice-consul, of the United States.

**Virginia.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a notary public; commissioner in



chancery; justice of the peace; the court or clerk of any county or corporation in which the real estate lies. *Out of the state and within the United States*, by a justice of the peace; notary public; commissioner of deeds for Virginia appointed by the governor of Virginia; commissioner in chancery; clerk of any court of record. *Out of the United States*, by any ambassador, minister plenipotentiary, minister resident, *charge d'affaires*, consul-general, consul, vice-consul, or commercial agent, of the United States; any foreign court; mayor or other chief magistrate of any city, town, or corporation in any foreign country.

**Washington.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge, clerk, or deputy clerk of the supreme or the superior court; county auditor; justice of the peace; notary public, who shall add his place of residence, and the words *notary public*, and affix his official seal. *Out of the state and within the United States*, by a commissioner for Washington appointed by the governor of Washington; any officer authorized by the laws of the state where the acknowledgment is taken. Unless such acknowledgment be taken before a commissioner, a clerk of a court of record, a notary public, or other officer having a seal of office, there must be attached to the instrument a certificate of a clerk of a court of record for the county or district where the acknowledgment is taken, under the seal of said court, that the officer before whom the acknowledgment is taken was, at the date thereof, such officer as he therein represents himself to be, that he is authorized to take the acknowledgment of deeds, and that the clerk verily believes the signature of the acknowledging officer to be genuine. *Out of the United States*, by a notary public, minister plenipotentiary, secretary of legation, *charge d'affaires*, consul-general, consul, vice-consul, or commercial agent, of the United States; the proper officer of any court of said country; mayor or other chief magistrate of any city, town, or other municipal corporation therein.

**West Virginia.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a clerk of any county court; notary public; justice of the peace. *Out of the state and within the United States*, by a notary public; justice of the peace, prothonotary; clerk of any court within the United States; commissioner for West Virginia appointed by the governor of West Virginia. *Out of the United States*, by a minister plenipotentiary, *charge d'affaires*, consul-general, consul, vice-consul, or commercial agent, of the United States; mayor or chief magistrate of any city, town, or corporation; the proper officer of any court of such country.

**Wisconsin.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court of record;

court commissioner of the circuit court; commissioner of any federal court within the state who has filed with the clerk of the circuit court of the county in which he resides his certificate of appointment or a certified copy thereof; county clerk; register of deeds; notary public; justice of the peace. *Out of the state and within the United States*, by a judge or clerk of a court of record; notary public; justice of the peace; master in chancery or other officer authorized by the laws of such other state; commissioner appointed by the governor of Wisconsin for such purpose. If executed within the jurisdiction of any military post of the United States not within Wisconsin, the commanding officer thereof is qualified to take acknowledgments. Unless the acknowledgment be taken before such commissioner, notary public, clerk of a court, or commanding officer of a military post, with their seals attached, it must be authenticated by a certificate from the clerk of the proper court. *Out of the United States*, by a notary public or other officer authorized by the laws of such country to take the acknowledgment of deeds therein; minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul, of the United States, appointed to reside in any foreign country.

**Wyoming.**—Acknowledgments of deeds and other instruments may be taken *within the state*, by a judge or clerk of a court of record; county clerk; United States commissioner; notary public; justice of the peace. *Out of the state and within the United States*, by a commissioner of Wyoming appointed by the governor; any officer authorized by the laws of the state or territory where the acknowledgment is taken. In the latter case there must be attached a certificate of authentication from the clerk, or other proper certifying officer, of the court of record of the county where the acknowledgment is taken. *Out of the United States*, by a consul-general, consul, or vice-consul, of the United States. Every notary public, justice of the peace, or commissioner of deeds for Wyoming shall add to his certificate the date of the expiration of his commission or term of office.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Acknowledgments of deeds and other instruments may be taken *within the province*, by a registrar or deputy registrar of titles; stipendiary magistrate or justice of the peace; judge or registrar of a court having a seal; notary public. *Without the province and within the British dominions*, by a judge, clerk, or registrar of a court having a seal; magistrate of any town or district within such dominion having a seal of office; notary public; commissioner appointed for taking acknowledgments out of the province. *Without the British dominions*, by a British ambassador, *charge d'affaires*, minister, consul,



or consular agent; judge of any court of record having a seal; notary public. In case the acknowledgment be taken by one of the last two named officers, it must be accompanied by a certificate of authentication from some of the above-named British officers, or from the governor or secretary of the state, province or territory. In joint deeds, the wife must be examined separately and apart.

**Manitoba.**—Acknowledgments of deeds and other instruments may be taken *within the province*, by a commissioner for taking affidavits in the king's bench; registrar or deputy registrar of the county where the land conveyed is situated; judge of any of the superior or county courts; justice of the peace. *Without the province and within the British dominions*, by a judge or prothonotary of any of the superior courts of law or equity; notary public. *Without the British dominions*, by a judge of a court of record; notary public; mayor of any city or town corporate, certified under the common seal of such city or town; British consul or vice-consul.

**New Brunswick.**—Acknowledgments of deeds and other instruments may be taken *within the province*, by a judge of a court of record; registrar; notary public. *Without the province and within the British dominions*, by a judge of the high court of Great Britain or Ireland, judge or lord of session in Scotland, or judge of any court of supreme jurisdiction in any British colony or dependency; notary public; mayor or chief magistrate of a city, municipality, borough, or town corporate. The handwriting of any such judge is to be authenticated under seal by a notary public. *Without the British dominions*, by a notary public; mayor of a city or town; governor of any state; British minister, consul, or consular agent. Proof of the execution of any deed may be made by the oath of a subscribing witness before any of the above-named officers, or a commissioner for taking affidavits.

**Nova Scotia.**—Acknowledgments of deeds and other instruments may be taken *within the province*, by a judge of the supreme court; registrar; notary public; justice of the peace. *Without the province and within the British dominions*, by a commissioner to take affidavits without the province; judge of a court of record; mayor of a city; justice of the peace; notary public. *Without the British dominions*, by a British consul, or any of the above-named officers. Proof of the execution of a deed may be made before any of the above officials by the oath of one of the subscribing witnesses.

**Ontario.**—Acknowledgments of deeds and other instruments may be taken *within the province*, by a registrar; justice of the peace; commissioner appointed for that purpose by the courts. *Without the province*, by a notary public; judge of any court of record; mayor or chief magistrate of any city or town; commissioner of deeds appointed for that purpose; British consul or vice-consul. Proof of all deeds,

mortgages, and other instruments, for registration, is made by an affidavit by a subscribing witness before any one of the above officials. One credible person who can read and write will suffice as a witness.

**Quebec.**—Mortgages and deeds affecting the title of lands held under the French system must be passed before a notary public. Where the lands are held in free and common socage, such deeds may be passed either before a notary, or before two witnesses; one of whom makes affidavit to the signatures, in order to prove their authenticity. Deeds of real property in this province made by parties residing in the United States are valid if executed and acknowledged according to the laws of the locality where made.



## ALIENS

An alien, resident or non-resident, may take and hold property, real and personal, either by purchase, descent, or devise, and may dispose of and transmit the same by sale, descent, or devise, in the same manner as a native citizen, in Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nevada (except Mongolians), New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Wyoming. The same is true of England and all of the provinces of Canada, except in New Brunswick and Ontario, where there are restrictions on the right of an alien to acquire title to British ships.

Resident aliens may take and hold real estate in California, Connecticut, Iowa, Kansas, Mississippi, Montana, Nebraska, New Hampshire, South Dakota, and Wisconsin. A resident having made *bona-fide* declaration of his intention to become a citizen of the United States, may hold and transmit realty in Delaware, Minnesota, New Mexico, New York, and Washington.

The following are special provisions in certain jurisdictions:

**Arizona.**—If property descend to an alien, he has 5 years to become a citizen, and take possession of, or sell, the same, provided that treaties of the United States with the nation of the alien do not otherwise direct; and provided that aliens may take and hold by descent from an alien or citizen in the same manner in which citizens of the United States may take by devise or descent within the country of the alien.

**California.**—No non-resident foreigner can take by succession unless he appear and claim such succession within 5 years after the death of the decedent to whom he claims succession; otherwise, aliens are under no statutory disability.

**Connecticut.**—Aliens residing in the United States and subjects of France may hold and transmit land; other non-resident aliens may hold and transmit lands for mining and quarrying purposes.

**Delaware.**—Resident aliens in this state, having declared their intention of becoming citizens of the United States, may hold and transmit real estate. If aliens die intestate their heirs may take, even if the heirs be aliens, provided that they reside within the limits of the United States at time of the intestate's death. All purchases,

conveyances, and devises made by or to an alien prior to January 1, 1897, shall be as good and effectual as if such alien had been a citizen. An intermediate alien is no bar to descent, provided the one claiming is capable of taking. The personal estate of a deceased alien who has died intestate is distributed as if he were a citizen. The widow and children of an alien now take the same estate that the law gave him, and legal proceedings for the conveyance of the estate of such widow and children shall be as effectual to transfer the property as if said alien had been a citizen.

**District of Columbia.**—Aliens cannot acquire or own real estate, except where the right is secured by existing treaties.

**Illinois.**—Aliens may acquire property in the same manner as citizens, but must sell real estate within 6 years after acquiring the same if 21 years of age, or within 6 years after becoming 21 years of age, if a minor when lands were acquired. Becoming a citizen within the 6 years relieves from the penalties of the statute.

**Indian Territory.**—There is no law as to the disposition, transmission, inheritance, or as to acquiring in any way lands and other property, as all lands in the Indian Territory are held in common by the members of the Indian nations.

**Indiana.**—Real estate may be acquired by aliens by purchase, devise, or descent and enjoyed by them the same as citizens, whether resident of the United States or a foreign country; but lands in excess of 320 acres so acquired and held, and remaining unconveyed at the end of 5 years after such acquisition, or after the alien has arrived at the age of 21 years, if a minor, escheats to the state, unless the owner shall meanwhile become a citizen of the United States.

**Iowa.**—Non-resident aliens or corporations incorporated under the laws of any foreign country, or corporations organized in this country, one-half of the stock of which is owned or controlled by non-resident aliens, are prohibited from acquiring title to or holding any real estate in this state, except as hereinafter provided, save that the widow and heirs and devisees, being non-resident aliens of any alien or naturalized citizen who has acquired real estate in this state, may hold the same by devise, descent, or distribution, for a period of 20 years, and, if at the end of that time such real estate have not been sold to a *bona-fide* purchaser for value, or such alien heirs have not become residents of this state, such land shall escheat to the state. Provided, that nothing in this act contained shall prevent aliens from having or acquiring property of any kind within the corporate limits of any city or town in the state, or lands not to exceed 320 acres in the name of one person, or stock in any corporation for pecuniary profit, or from alienating or devising the same.



**Kansas.**—Non-resident aliens or partnership firms of aliens, and corporations incorporated under the laws of any foreign country, are not capable of acquiring title to or holding real estate by descent, devise, purchase, or otherwise.

**Kentucky.**—Aliens have the same right to hold and convey real and personal property as citizens of Kentucky have by the laws of the government of which such alien is subject; independent of such laws, they have but a limited right to hold and convey.

**Minnesota.**—Persons who are not citizens and those who have not declared their intentions to become citizens, and foreign corporations not created under the laws of the United States, or the laws of any state or territory, cannot acquire, hold, or own real estate acquired after January 1, 1887, except by devise or inheritance. The disability of aliens to acquire and hold real estate does not apply to cases where the right to hold realty is secured by treaties with foreign countries, nor to actual settlers on a farm of not more than 160 acres, nor to lands obtained in good faith by due process of law in the collection of debts, or to foreclosure of mortgages, or to lands acquired by devise and inheritance. No corporation, more than 20 per cent. of whose stock is owned by aliens, can acquire real estate. Aliens may hold not more than six lots in an incorporated city.

**Mississippi.**—Non-resident aliens shall not acquire or hold land, but may take security thereon for debt, and may purchase for the enforcement of the security, and may hold thereunder not longer than 20 years, with power to sell in the meantime, or by becoming citizens may hold the land.

**Montana.**—Aliens may acquire and purchase mines, mining property, concentrating works, and the necessary real estate to be used in connection therewith. Non-resident aliens must claim property within 5 years after the death of the person to whom they claim succession.

**Nebraska.**—Non-resident aliens are prohibited from acquiring title to real estate, except when taken at sale for collection of debt or to enforce a lien against land. Lands so acquired must be conveyed within 10 years thereafter, or escheat to the state. This disability does not apply to real estate necessary for the construction of railroads or for the purpose of erecting and maintaining manufacturing establishments, or to real estate lying within the corporate limits of cities and towns.

**New York.**—An alien, who has declared his intention of becoming a citizen and has filed his deposition, may take, hold, convey, and devise real property. If the deposition be filed or such alien be admitted to citizenship, a grant, devise, contract, or mortgage theretofore made to or by him is as valid and effectual as if made thereafter;

but no devise to an alien is valid unless he file his deposition or be admitted to citizenship within 1 year after the death of the testator, or, if the devisee be a minor, within 1 year after his majority. If an alien die within 6 years after he has filed his deposition and before he is admitted to citizenship, his widow is entitled to dower; and, if he die intestate, his heirs inherit upon being admitted to citizenship or filing a deposition within 1 year after the death, or, if minors, within 1 year after their majority. A woman, a citizen of the United States, married to an alien, may take by grant, will, or descent, and hold, convey, and devise, real property within the state, and her descendants, upon her death intestate, may inherit her real property within the state.

**North Dakota.**—When a title to real estate is claimed by descent by a person capable at the time of inheriting, it shall be no bar that the father, mother, or other ancestor through whom the descent is derived was an alien.

**Pennsylvania.**—Aliens may purchase real estate not exceeding 5,000 acres in quantity nor \$20,000 in annual value. But an alien may take title to real estate, by devise or descent, from a citizen of the United States to an unlimited amount or value. Where an alien or corporation, foreign to the state, had held real estate in excess of that allowed by law, and had conveyed the same to a citizen of the United States prior to April 8, 1881, the title of the citizen is good, unless inquisition for an escheat had before that date been taken. When conveyances of real estate have been made by an alien or any foreign corporation, or corporation of another or of this state, or by the officers of any such corporation after dissolution or expiration of charter, since June 9, 1891, to any citizen of the United States or to any corporation chartered under the laws of this state and authorized to hold real estate, before any inquisition shall have been taken against the real estate so held to escheat the same, such grantee shall hold and may convey such title and estate indefeasibly, as to any rights of escheat in the commonwealth, by reason of such real estate having been held by an alien or corporation not authorized to hold the same by the laws of the commonwealth.

**South Carolina.**—The constitution of 1895 provides: "It shall be the duty of the General Assembly to enact laws limiting the number of acres of land which any alien, or any corporation controlled by aliens, may own, within this state." The General Assembly of 1896 enacted laws carrying this constitutional provision into effect. No title to real estate shall be invalid on account of the alienage of a former owner.

**South Dakota.**—By provision in the constitution, no distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

**Texas.**—Aliens have as full rights as to ownership of property as are given to citizens of Texas by the country of the alien. They may acquire and hold city or town lots as citizens. An alien taking lands by devise or inheritance has 9 years to sell the same or become a citizen. They may enforce liens on lands, and may own lands, subject to the right of the state to require them to sell in 10 years. The state has never required aliens to sell, and practically aliens have all the property rights of citizens.

**Utah.**—Aliens may take title to real estate descending to them, but no non-resident alien can take by succession unless he appear and make claim within 5 years after the intestate's death.

**Washington.**—The ownership of lands by aliens other than those who, in good faith, have declared their intention to become citizens of the United States is prohibited by the constitution of the state, except where acquired by inheritance, under mortgage, or in good faith in the ordinary course of justice in the collection of debts. But these provisions do not apply to lands containing valuable deposits of minerals, metals, iron, coal, or fireclay, and the necessary land for mills and machinery to be used in the development thereof, and the manufacture of the products therefrom. Every corporation, the majority of the capital stock of which is owned by aliens, is considered an alien for the purposes of this constitutional prohibition.

**Wisconsin.**—Resident aliens have the same rights as to property that citizens have. A non-resident alien can acquire only 320 acres of land by purchase,



## ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

**Alabama.**—Every general assignment made by a debtor or a conveyance by a debtor of substantially all of his property subject to execution in payment of a prior debt, by which a preference or priority of payment is given to one or more creditors over the remaining creditors of the grantor, including confessed judgments, collusive attachments, and the like, shall be and inure to the benefit of all the creditors of the grantor equally, but this section shall not apply to or embrace mortgages given to secure a debt contracted contemporaneously with the execution of the mortgage, and for the security of which the mortgage was given. Every deed of trust, mortgage, or other security, made to secure any preexisting debt, whether such debt is due or not, or absolute, or conditional, is fraudulent and void, as to the creditors of the grantor, when any creditor provided for thereby is required to make any release, or to do any other act impairing his existing rights, before participating in or receiving the securities therein provided for him. All conveyances or assignments in writing, or otherwise, of any estate or interest in real or personal property, and every charge upon the same, made with intent to hinder, delay, or defraud creditors, purchasers, or other persons of their lawful suits, damages, forfeitures, debts or demands, and every bond, or other evidence of debt, given, suit commenced, decree or judgment suffered, with the like intent, as against the persons who are or may be so hindered, delayed, or defrauded, their heirs, personal representatives and assigns, are void. All deeds of gift, conveyances, transfers, and assignments, verbal or written, of goods, chattels or things in action, made in trust for the use of the person making the same, are void against creditors, existing or subsequent, of such person. A general assignment for the benefit of creditors must be recorded in each county where property is, and is effective only from the time of delivery to the probate judge for record.

**Arizona.**—Assignments shall provide for the distribution of all real and personal property, not exempt, in proportion to their respective claims. They must be proved, acknowledged, certified, and recorded as conveyances of real and personal property. There shall be annexed to the assignment a statement showing the creditors, the residence of each, if known—and if not known, the fact to be stated—the sum owing to each, the nature of the debt, whether arising on written contract,

account or otherwise, the true cause and consideration, and the place where such indebtedness arose, of every judgment, mortgage, or other security for the payment of such debt, an inventory of the estate at the date of assignment, legal or equitable; encumbrances, vouchers and securities, with the value to the best of the debtor's knowledge. The affidavit annexed to the inventory shall state that the same is in all respects just and true to the best of the affiant's knowledge and belief. Exempt property may be retained. The inventory is not conclusive. Creditors may consent to retain their proportionate shares; if they do not, then the creditors consent to take their shares and the debtor is discharged. The law provides for notice, personal and by publication, of the appointment of the assignee. Each claim shall be supported by the affidavit of creditor, his agent or attorney, that the statement is true, that the debt is just, and that there are no credits or offsets that should be allowed against the claim, except as is shown by the statement. A creditor not consenting to the assignment may garnishee the assignee for the balance in his hands. Preferences are void. Grantee may show good faith and consideration of a conveyance.

**Arkansas.**—Assignments may be general or partial, with or without preferences, and where all the debtor's property is conveyed, he may exact releases as a condition of preference. Corporations cannot prefer creditors. Assignments are vitiated by the fraud of the assignor alone or by any provision varying from the requirements of the statute. Title vests in the assignee, not only as against the assignor, but also as against the execution creditors, without registration. The assignee shall take possession of the property immediately, and care for the same and make an inventory, and within 10 days file, in the office of the clerk of the court exercising equity jurisdiction in the county, a full and complete inventory and description of the property, and execute a bond to the state. The assignee must file annual accounts current with the court. He must sell the property at public auction, within 120 days after the execution of the bond, giving 30 days' notice of time and place of sale, and persons injured can sue on the assignee's bond.

**California.**—An insolvent debtor may in good faith execute an assignment of property to the sheriff of the county in which he resides, in trust for the satisfaction of his creditors, subject, however, to the provisions of law relative to trusts and fraudulent transfers. An assignment is void against any creditor not assenting thereto, if it give a preference of one debt or class of debts over another, or tend to coerce any creditor to release or compromise his demand, or provide for the payment of any claim known to the assignor to be false or fraudulent, or for the payment of more upon any claim than is known to be justly due from the assignor, or reserve any interest in the assigned property, or any part thereof, to the assignor, or confer upon



the assignee any power which, if exercised, might prevent or delay the immediate conversion of the assigned property for the purposes of the trust, or exempt him from liability for neglect of duty or misconduct. The assignment must be recorded with the county recorder of the county in which the assignor resides, or in which is his principal place of business, or if he have no such residence or place of business, in the county where the property is located. Within 20 days after an assignment, the assignor must file a verified inventory showing all his creditors, their residences, the amount due each, and the nature of the debt, all his property, with the encumbrances and value and other data mentioned in the statutes. The sheriff must take possession and custody of the property, and give notice to the creditors, who, on the day specified, meet and elect an assignee, to whom the sheriff transfers the property and who thereafter administers the trust, requiring proof of all claims and applying the property to the satisfaction of them ratably.

**Colorado.**—Any person, copartnership, or corporation may make a general assignment, which to be valid must be for the benefit of all creditors without preferences. The assignment must be filed for record in the office of the clerk and recorder of the county where the assignor resides, or, if a non-resident, where his principal place of business is in this state. The assignor shall, within 4 days, render to the assignee a verified inventory of his assets, creditors, and the amount due them. The assignee, within 6 days after recording, must file a verified inventory of the property that has come to his knowledge, and give bond. He shall then give notice in a newspaper in the county for 4 weeks, and send notice by mail to each creditor to present his claim within 3 months. Claims filed within such 3 months shall have precedence, unless the creditor show that he did not receive such notice. At the expiration of 3 months, the assignee, on filing a statement of his proceedings, may declare a dividend. Claims of servants, laborers, and employes for wages earned during 6 months next preceding the date of the assignment, not to exceed \$50 to any one person, and all taxes assessed under the laws of the state or the United States, shall be paid in full prior to the payment of dividends in favor of other creditors. The assignee shall close his trust within 1 year from the filing of the assignment, unless the court, for good cause shown, extend the time. The debtor desiring to be discharged shall, at any time after three months and within 1 year of the filing of the assignment, file his application for his discharge. The order for the creditors to show cause why the debtor shall not be discharged shall be published for 4 weeks, and notice shall be mailed to each creditor within 5 days. On hearing, the court may then discharge the debtor as to all creditors who have received notice, or who have taken part in the proceedings, except as to debts due in fiduciary capacity or in consequence of defalcation as a public officer.



**Connecticut.**—Preferences are not allowed, except claims for personal services, and costs of attachments and of executions dissolved by such assignment. An assignment must be lodged for record in the office of the court of probate for the district where the assignor or assignees or some of them reside; if the assignment be recorded before the lien of a creditor attaches, it will avail against it. The probate court will cause public notice to be given, and upon hearing will approve the trustee selected by the debtor or appoint another. All attachments and incomplete levies of execution commencing within 60 days of the filing of such assignment are dissolved thereby. At a meeting of creditors for the purpose, two commissioners are appointed by the probate court to receive and decide upon claims against the debtor's estate and report the same to the court. Notice of said appointment is sent to all known creditors and the time is limited (not less than 3 nor more than 6 months) for the presentation of claims. Appeal from the doings of commissioners within 1 month lies to the superior court, if the claim exceed \$50. Claims for personal services rendered within 3 months to the amount of \$100 will be allowed as preferred. The debtor may be allowed, for the support of his family, a sum not exceeding \$3 per week for each member and not exceeding \$15 per week in the whole, for such time not exceeding 6 months, as the court may order. If no reservation of cash were made in the deed of assignment, the court may allow the debtor a further sum, not exceeding \$100; and, if the estate pay more than 50 per cent. on final settlement, the court may order payment to the debtor of 25 per cent. of such excess, provided it shall not exceed \$1,000. The court will direct payment of claims in the following order: Expenses of settlement, taxes, and debts to the state and the United States, cost of attaching and levying creditors, such claims allowed by commissioners as are to be paid in full, and other claims allowed in proportion to their amounts. The debtor gets no discharge unless the estate pay 70 per cent. or more on the claims allowed.

**Delaware.**—Assignments for the benefit of creditors are rarely used in this state since the decision of the chancellor in *Elliott v. Moutell*, 7 Houston, 194, in which, in commenting on the act of March 25, 1875, he said the act nowhere professes to declare what shall constitute a valid assignment, but only prescribes that when a voluntary assignment is made, certain things must be done as therein specified. The decision is to the effect that such an assignment can be effectual only with the privity and consent of all the creditors. If the assignment is unimpeachable the act of March 25, 1875, provides the machinery for carrying it into effect, such as the bond of the trustee, the inventory and appraisement, and the general supervisory control of the chancellor. In the case of insolvent corporations, there is a statutory provision by which any stockholder or creditor may apply to the

chancellor for the appointment of a receiver or receivers to take charge of the affairs and business thereof. Such a receiver or receivers are subject to the order of the chancellor.

**District of Columbia.**—Voluntary assignments made for the benefit of creditors shall be made to an assignee who is a resident of the District of Columbia, and duly acknowledged and recorded within 5 days after its execution in the land records of the district. The assignee is required, immediately upon the filing of such statement, to file in the clerk's office of the supreme court of the district his bond to the United States, to be approved by the justice holding a court of equity. To such an assignment, the debtor is required to annex an inventory, under oath or affirmation, of all his estate, real and personal, and to furnish a list of all creditors, their residences and places of business, and the amounts of their respective demands. Every provision in any voluntary assignment for the payment of one debt in preference to the others shall be void, and all debts and liabilities shall be paid *pro rata* from the assets, except *bona-fide* liens existing before the execution of such assignment. And every sale, assignment, or transfer of property or effects of a partnership, or of any general partner, made by such partner when insolvent, with the intent of giving preference to any creditor of such partnership or insolvent partner, and every judgment confessed or lien created under such circumstances shall be void as against the creditors of such partnership.

**Florida.**—The selection and appointment as assignee of any person related by consanguinity or affinity to the assignor is prohibited. Preferences are not allowed. All property, except that exempt, must be transferred to the assignee. The assignment must be recorded in the clerk's office of the county or counties where the assigned property is situated. The assignor must within 10 days make and subscribe an oath that he has placed all his property except his exemption in the hands of his assignee for equal distribution among his creditors. The assignor must publish for 4 weeks a notice to creditors, and mail a notice to each. If the creditors reside within the state, they must file their claims within 60 days thereafter; if beyond the state, within 4 months. The assignee is required to file semi-annually a sworn statement of his transactions. The assignment does not release the debtor from debts not satisfied by it.

**Georgia.**—An insolvent debtor, except limited partnerships if made with a view of insolvency or while insolvent, and except corporations, may prefer creditors. Conveyances of every kind made with intent to delay or defraud creditors, where such intent was known to the party taking, and assignments reserving any trust or benefit to an insolvent, are void as to existing creditors. Creditors must be notified



by the assignee of the filing of the assignment within 30 days. Preferred debts are not to be paid until 60 days after the filing of the assignment.

**Idaho.**—No assignments are valid except those made on petition and on proceedings in the district court of the county where the debtor resides. By such proceedings, an insolvent debtor may assign all his property for the benefit of all his creditors, the court appointing the assignee. No preferences are allowed. On full disclosure by the debtor of all his liabilities, and all claims due and owing to him, and by surrender of all his property not exempt from execution, he will be discharged from liability on his indebtedness so far as concerns debts due to creditors residing in the state.

**Illinois.**—The assignment must be acknowledged and recorded in the county where the debtor resides, and where the business in respect to which the assignment is made is carried on, and in the county or counties where any land assigned is situated. Provisions for the payment of one creditor in preference to another are void, and all debts are to be paid *pro rata*. This statute renders wholly void any disposition of the debtor's property by way of preference of one debtor over another, by confession of judgment, or by an actual transfer by the debtor, where such disposition of the debtor's property is made after he has determined to make an assignment for the benefit of his creditors. The property so transferred or disposed of may be recovered by the assignee. The assignee must give notice by publication in a newspaper within the county for 6 weeks, and by mail to each creditor, to present their claims under oath within 3 months. He must file in the county court a sworn inventory and valuation of the estate assigned. At the first term after the 3 months allowed for presenting claims, where no exceptions are filed, or if such as are made be disposed of, the assignee is ordered by the court to make an equal dividend among the creditors, except as to claims due to laborers and servants, whose debts are preferred in payment, and within 1 year thereafter the assignee is required to render final account. In case of the death, or the failure of an assignee to qualify within 20 days after the assignment, the court may appoint another, and he may be removed for waste or misapplication of the trust estate. The debtor may be examined on oath touching his estate. Claims not presented within 3 months from the publication of notice cannot participate in the dividends until all claims presented within that time are paid in full. The assignment, and all the proceedings under it, may be superseded upon the assent in writing of the debtor and a majority of his creditors in number and amount, and thereupon all parties are remitted to the rights and duties existing at the date of the assignment, except so far as such estate shall have been already administered and disposed of.

**Indian Territory.**—Assignments may be made of all or a part of the property of a debtor. Preferences are not allowed. The assignee must file an inventory and give bond. Property must be sold within 120 days at public auction, upon 30 days' notice.

**Indiana.**—The act does not prevent preferences by direct transfers of property or by assignment of all or part of the assignor's property for the benefit of part of his creditors, but it is intended simply to regulate assignments of the debtor's entire estate intended to be for the benefit of all his creditors, in which case the law must be complied with or the assignment will be void. The deed of assignment must be filed for record in the office of the recorder of the county in which the assignor resides within 10 days after its execution, and no title passes to the assignee until this has been done. The trustee must qualify within 15 days. If he fail to act, the court may appoint a substitute upon petition. The trustee named may be removed by the court on the petition of creditors representing in amount one-half of the liabilities of the debtor. The court may order the examination under oath of the debtor as to the conduct of his business for 6 months preceding the assignment. The debtor is not discharged from his liabilities.

**Iowa.**—Preferences are not allowed. Taxes, however, have priority, and after payment of these, the earnings of any creditor for his personal services shall be a preferred claim, if such services were rendered to the assignor at any time within 90 days preceding the assignment. The assignment must be acknowledged like a conveyance of real property, and recorded in the county where the debtor resides or his business has been carried on. Unless possession accompany the conveyance of personal property, such assignments must be recorded as other conveyances. The assignee must file an inventory under oath and give bonds. On application of two-thirds of the creditors in number and amount, the court shall remove the assignee and appoint one approved by such creditors. The assignee must give notice of the assignment, by publication for 6 weeks, and by mail to each known creditor, directing him to present his claim under oath within 3 months thereafter. On the expiration of the 3 months from the time of first publishing notice, he shall file a list of creditors who have presented claims, together with a statement of the claims, under oath, and also proofs of the notice given. Within 3 months after the filing of this report, any person interested may contest any such claim, which shall be tried, proper notice having been given to such creditor, returnable at the next term. The court may order the assignee to make dividends to the creditors from time to time, and also to make reports. The assignee shall dispose of all personal property within 6 months of the date of the assignment, and of the real property within a year, unless the court extend the time. All claims presented



within the 3 months shall be paid in full before any others are paid. Debtors are not discharged.

**Kansas.**—No preferences are allowed. There shall be filed in the office of the clerk of the district court of the county in which such assignment is recorded, on the day it is executed, a verified schedule of the liabilities of the assignor, with the name of the creditor, the amount and character of his debt, and his post-office address, so far as known to such assignor. The clerk within 2 days next following the filing of such schedule shall mail to the post-office address, as given, of each creditor for more than \$10, a notice of the assignment, with the names of the assignor, the assignee, and all the creditors, and a statement of the amounts in the schedule, and name a day, not less than 20 nor more than 30 days from the day of such assignment, on which a meeting of the creditors will be held at the office of such clerk to choose an assignee; and until after such meeting the assignee named in the assignment shall exercise no powers except to safely keep the property coming into his hands. An assignee may be chosen by the greater part in value and in number of those attending or so represented. If no choice be made at such meeting, or if the person chosen fail to accept, the judge of the district court, or in his absence from the county the probate judge, appoints an assignee. An assignment does not discharge debts beyond the actual payments made.

**Kentucky.**—Preferences are not allowed, but debts due by the assignor as guardian, committee, trustee of an express trust created by deed or will, or as administrator or executor, are to be paid in full before the general creditors. Every sale, mortgage, or assignment, judgment suffered, act or device done by a debtor in contemplation of insolvency, and with design to prefer a creditor, operates as an assignment of all his property for the benefit of all of his creditors, and may be reached by petition filed within 6 months. There must be filed within 5 days from the execution a schedule of assets, and a list of creditors. The assignee must qualify before a county court, and within 2 months must give notice by publication of the time and place where he will receive claims. Personal property shall be sold by the assignee at public or private sale as the court directs; real property may be sold under order of the court. If creditors representing one-half in number and two-thirds of the amount of debts against the estate shall so request in writing, the court shall remove the assignee, and appoint another in his stead. An assignment does not release the assignor.

**Louisiana.**—Assignment for the benefit of creditors does not exist. Any person may make a surrender of his property to his creditors. The latter name a syndic (an assignee) who disposes of the estate as the creditors decide, and the proceeds are distributed ratably

**Indian Territory.**—Assignments may be made of all or a part of the property of a debtor. Preferences are not allowed. The assignee must file an inventory and give bond. Property must be sold within 120 days at public auction, upon 30 days' notice.

**Indiana.**—The act does not prevent preferences by direct transfers of property or by assignment of all or part of the assignor's property for the benefit of part of his creditors, but it is intended simply to regulate assignments of the debtor's entire estate intended to be for the benefit of all his creditors, in which case the law must be complied with or the assignment will be void. The deed of assignment must be filed for record in the office of the recorder of the county in which the assignor resides within 10 days after its execution, and no title passes to the assignee until this has been done. The trustee must qualify within 15 days. If he fail to act, the court may appoint a substitute upon petition. The trustee named may be removed by the court on the petition of creditors representing in amount one-half of the liabilities of the debtor. The court may order the examination under oath of the debtor as to the conduct of his business for 6 months preceding the assignment. The debtor is not discharged from his liabilities.

**Iowa.**—Preferences are not allowed. Taxes, however, have priority, and after payment of these, the earnings of any creditor for his personal services shall be a preferred claim, if such services were rendered to the assignor at any time within 90 days preceding the assignment. The assignment must be acknowledged like a conveyance of real property, and recorded in the county where the debtor resides or his business has been carried on. Unless possession accompany the conveyance of personal property, such assignments must be recorded as other conveyances. The assignee must file an inventory under oath and give bonds. On application of two-thirds of the creditors in number and amount, the court shall remove the assignee and appoint one approved by such creditors. The assignee must give notice of the assignment, by publication for 6 weeks, and by mail to each known creditor, directing him to present his claim under oath within 3 months thereafter. On the expiration of the 3 months from the time of first publishing notice, he shall file a list of creditors who have presented claims, together with a statement of the claims, under oath, and also proofs of the notice given. Within 3 months after the filing of this report, any person interested may contest any such claim, which shall be tried, proper notice having been given to such creditor, returnable at the next term. The court may order the assignee to make dividends to the creditors from time to time, and also to make reports. The assignee shall dispose of all personal property within 6 months of the date of the assignment, and of the real property within a year, unless the court extend the time. All claims presented



or in contemplation thereof, within 6 months before proceedings are commenced, with a view to give a preference, if the person receiving the same or to be benefited thereby has reasonable cause to believe the person making same insolvent or in contemplation of insolvency; and that the same is made in fraud of the laws relating to insolvency; and the property, or the value of it, may be recovered by the assignee. A person who has accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of the statutes, shall not prove the debt or claim on account of which the preference was made or given, or receive any dividend thereon. The assignment to the assignee vests in him all the estate of the debtor, except that which is exempt from being taken in execution. Assignments for benefit of creditors are not valid as against insolvency proceedings, excepting that if made, accepted by the assignee, and assented to by a majority in number and value of creditors whose claims are neither secured nor privileged, and notice sent all creditors, and record of assignment, the assignee's acts in caring for and disposing of the property will be valid, and an assignee in insolvency shall be entitled to recover the net amount received therefor. Provision is made for a composition with creditors under the direction of the court. In the ordinary course of proceedings, it requires from 6 to 8 months to close an insolvent estate and reach payment of dividends, if any. There are three meetings at which creditors may prove claims. At the first, the assignee is chosen. The second is called within 3 months after the date of the warrant, and the third within 6 months after the appointment of the assignee. Under the composition act, the period before final settlement is reached is usually much shorter. In forwarding proofs of claims to be allowed in insolvency proceedings, the form of affidavit adopted by the courts must be used. Unless represented by counsel here, creditors desiring to prove a claim should send to the register of the court and procure proper blanks, whether for individual, firm, or corporation creditor. Originals of bills and notes, and itemized bills of merchandise accounts, must be annexed to the proof or affidavit. Copies of bills and notes will not serve, but such originals may, after claim is allowed, be taken from the files upon leaving a copy, and with permission of the register. The assignee is chosen at the first meeting of the creditors by a majority in amount of those whose claims have been proved and allowed. Non-resident assignees must appoint agent resident here for service of process. In the order for a dividend, the following claims shall be entitled to priority, and to be first paid in full in that order: (1) Debts due the United States and taxes. (2) Wages due an operative, clerk, or servant to an amount not exceeding \$100, for labor performed within 1 year next preceding commencement of insolvency proceedings. (3) Debts due physicians for medical attendance on the debtor or his family rendered

within six months preceding insolvency, not exceeding in amount \$50.

(4) Debts due to persons who, by United States laws or those of this state, are or may be entitled to priority or preference in like manner as if the chapter on insolvency in public statutes had not been enacted.

(5) Legal fees, costs and expenses of suit, and for custody of property when the debtor's property has been attached under mesne process, and not dissolved before commencement of insolvency proceedings.

A small maintenance allowance may be made debtor from assets. Firms and corporations, including foreign, having their usual places of business here, except railroad and banking companies, may petition to be petitioned into insolvency. In the cases of foreign firms and corporations, the proceedings apply so far as any property in this state is concerned. Discharge not granted corporations. Grounds for involuntary proceedings are as follows: If a person arrested on mesne process in a civil action for the sum of \$100 or upwards, founded upon a demand in its nature provable against the estate of an insolvent debtor, has not given bail therein on or before the return day of such process, or has been actually imprisoned thereon for more than 30 days; or if a person whose goods or estate are attached on mesne process in such action founded upon such contract has not, before the return day of such process, dissolved the attachment in the manner provided by law; or if a person has removed himself or any part of his property from the state with intent to defraud his creditors, or has concealed himself to avoid arrest or any part of his property to prevent its being attached or taken on a legal process, or procured himself to be arrested or his property to be attached or taken on any legal process, or made a fraudulent payment, conveyance, or transfer of any part of his property, or, being a banker, broker, merchant, trader, manufacturer, contractor, builder, or miner, has fraudulently stopped payment, or has stopped or suspended and not resumed payment of his commercial paper within a period of 14 days, any three or less number of his creditors whose combined claims provable against his estate amount to \$100 may, within 90 days thereafter, or, in the case of any such fraudulent conveyance of real estate, within 90 days after the same has been recorded, if the debtor has resided in the state within 1 year, apply by petition to the judge for the county in which the debtor has last resided, or had a usual place of business, for 3 consecutive months before the application if he has resided, or has a usual place of business, for that time in any county, otherwise to the judge for the county within which he resides or last resided, or has or last had a usual place of business, setting forth the facts and the nature of their claims, verified by oath, and praying that his estate may be seized and distributed according to the provisions of this chapter. Ground upon which discharge is refused is as follows: Discharge not granted or valid if the debtor has wilfully sworn falsely as to any material fact in the course of the proceedings, or has fraudulently concealed



any part of his estate or effects, or any book or writings relating thereto; or has made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or spent any part thereof in gaming, or if within 6 months before the filing of the petition by or against him he has obtained on credit from any person any money, goods, chattels, or other thing of value, with intent not to pay for the same, or has procured his lands, goods, money, or chattels to be attached, sequestered, or seized on execution, or has destroyed, altered, mutilated, or falsified any of his books, documents, papers, writings, or securities, or has made, or been privy to the making, of any false or fraudulent entry in any book of account or other document with intent to defraud his creditors, or, with that intent, has expended, invested, or used any part of his property in the erection, alteration, repair, or location of building on land owned or leased wholly or in part by another, or has removed himself or removed or caused to be removed any part of his property from the state with intent to defraud his creditors, or if, having knowledge that a person has proved a false debt against his estate, he have not disclosed the same to his assignee within 1 month after such knowledge; or if, being a merchant or tradesman, he have not kept proper books of account; except when the total claims proved exceed \$5,000 and two-thirds in number and the majority in value of creditors assent in writing and the court orders.

**Michigan.**—An assignment is void unless it be of all the assignor's property not exempt from execution, and be without preferences. It must be acknowledged, and within 10 days it or a duplicate, a sworn inventory of the assigned property, and list of the assignor's creditors, and a proper bond by the assignee, must be filed with the clerk of the circuit court of the county where the assignor resides, or if he be not a resident of the state, where the assignee resides, or if neither be a resident of the state, then of the county where the assigned property is principally located. So much of the debt as is not paid by the assignee remains an obligation against the debtor. The law as to such assignments is suspended by the national bankruptcy act.

**Minnesota.**—The assignee must be a freeholder and a resident of this state. No preferences are allowed. The assignment must be filed in the office of the clerk of the district court where the debtor resides or does business. Within 10 days thereafter the assignor must file a verified account of his creditors and their claims. All proceedings are subject to the order and supervision of the judge of the district court, and such judge may, for cause shown, remove the assignee and appoint another. At least 20 days before the assignee shall make payment of any dividend or distribution of any such estate, he shall file with the clerk of the district court a statement under his oath of all creditors who have filed claims, with the

amount and nature of their claims. After paying the expenses of the assignee, creditors are paid in the following order: All debts owing to the United States and debts owing to the state of Minnesota, and all taxes and assessments; debts owing for wages of servants, laborers, mechanics, and clerks, for labor and services performed within 3 months next preceding the date of the assignment; all other debts of the creditor properly claimed and verified. Assignments are more frequently made under the state insolvent law.

**Mississippi.**—Preferences are allowed although the debtor may be insolvent. Assignments must be recorded. General assignments are administered in the chancery court; the assignee is made an officer of the court.

**Missouri.**—Preferences are void. Assignments must be recorded. Within 3 months after the assignment, the assignee must designate 3 consecutive days on which claims are to be presented to him for allowance, written notice of which must be given to every known creditor at least 4 weeks before the appointed day. Any creditor failing to present his claim during said term, on account of sickness, absence from the state, or any other good cause, may, at any time before the declaration of the final dividend, file and prove his claim and receive "the remaining dividends" paid. As soon as practicable, and not exceeding 1 month after the allowance of demands, the assignee must pay upon the demands allowed whatever the means on hand will permit, and as often thereafter as a dividend of 5 per cent. can be paid. The assignee is required to make report of his receipts and disbursements at every term of the circuit court. The assignee is a trustee for the benefit of the creditors of the assignor. The dividends received discharge the debt only *pro tanto*. There is no provision in the statute for composition proceedings.

**Montana.**—All claims of employes for services rendered within 60 days preceding the assignment, not exceeding \$200, are preferred claims and must be paid before any other creditor or creditors of such assignor. Preferences as to other creditors are allowed. The assignment must be recorded within 20 days after the execution thereof and must be accompanied by the affidavit of the assignor and assignee that such assignment is made in good faith. The assent of the assignee must be indorsed thereon. If not so executed and recorded, it is void. Within 20 days after the assignment a verified schedule of assets and liabilities must be made and filed. Within 30 days from the assignment, the assignee must enter bond, and within 6 months he may be required to account to the district court. He is at all times under the direction of the court, and may for good cause shown be removed.

**Nebraska.**—Assignments must be made to the sheriff of the county. They are void in the following cases: If a preference be



by the assignee of the filing of the assignment within 30 days. Preferred debts are not to be paid until 60 days after the filing of the assignment.

**Idaho.**—No assignments are valid except those made on petition and on proceedings in the district court of the county where the debtor resides. By such proceedings, an insolvent debtor may assign all his property for the benefit of all his creditors, the court appointing the assignee. No preferences are allowed. On full disclosure by the debtor of all his liabilities, and all claims due and owing to him, and by surrender of all his property not exempt from execution, he will be discharged from liability on his indebtedness so far as concerns debts due to creditors residing in the state.

**Illinois.**—The assignment must be acknowledged and recorded in the county where the debtor resides, and where the business in respect to which the assignment is made is carried on, and in the county or counties where any land assigned is situated. Provisions for the payment of one creditor in preference to another are void, and all debts are to be paid *pro rata*. This statute renders wholly void any disposition of the debtor's property by way of preference of one debtor over another, by confession of judgment, or by an actual transfer by the debtor, where such disposition of the debtor's property is made after he has determined to make an assignment for the benefit of his creditors. The property so transferred or disposed of may be recovered by the assignee. The assignee must give notice by publication in a newspaper within the county for 6 weeks, and by mail to each creditor, to present their claims under oath within 3 months. He must file in the county court a sworn inventory and valuation of the estate assigned. At the first term after the 3 months allowed for presenting claims, where no exceptions are filed, or if such as are made be disposed of, the assignee is ordered by the court to make an equal dividend among the creditors, except as to claims due to laborers and servants, whose debts are preferred in payment, and within 1 year thereafter the assignee is required to render final account. In case of the death, or the failure of an assignee to qualify within 20 days after the assignment, the court may appoint another, and he may be removed for waste or misapplication of the trust estate. The debtor may be examined on oath touching his estate. Claims not presented within 3 months from the publication of notice cannot participate in the dividends until all claims presented within that time are paid in full. The assignment, and all the proceedings under it, may be superseded upon the assent in writing of the debtor and a majority of his creditors in number and amount, and thereupon all parties are remitted to the rights and duties existing at the date of the assignment, except so far as such estate shall have been already administered and disposed of.

**Indian Territory.**—Assignments may be made of all or a part of the property of a debtor. Preferences are not allowed. The assignee must file an inventory and give bond. Property must be sold within 120 days at public auction, upon 30 days' notice.

**Indiana.**—The act does not prevent preferences by direct transfers of property or by assignment of all or part of the assignor's property for the benefit of part of his creditors, but it is intended simply to regulate assignments of the debtor's entire estate intended to be for the benefit of all his creditors, in which case the law must be complied with or the assignment will be void. The deed of assignment must be filed for record in the office of the recorder of the county in which the assignor resides within 10 days after its execution, and no title passes to the assignee until this has been done. The trustee must qualify within 15 days. If he fail to act, the court may appoint a substitute upon petition. The trustee named may be removed by the court on the petition of creditors representing in amount one-half of the liabilities of the debtor. The court may order the examination under oath of the debtor as to the conduct of his business for 6 months preceding the assignment. The debtor is not discharged from his liabilities.

**Iowa.**—Preferences are not allowed. Taxes, however, have priority, and after payment of these, the earnings of any creditor for his personal services shall be a preferred claim, if such services were rendered to the assignor at any time within 90 days preceding the assignment. The assignment must be acknowledged like a conveyance of real property, and recorded in the county where the debtor resides or his business has been carried on. Unless possession accompany the conveyance of personal property, such assignments must be recorded as other conveyances. The assignee must file an inventory under oath and give bonds. On application of two-thirds of the creditors in number and amount, the court shall remove the assignee and appoint one approved by such creditors. The assignee must give notice of the assignment, by publication for 6 weeks, and by mail to each known creditor, directing him to present his claim under oath within 3 months thereafter. On the expiration of the 3 months from the time of first publishing notice, he shall file a list of creditors who have presented claims, together with a statement of the claims, under oath, and also proofs of the notice given. Within 3 months after the filing of this report, any person interested may contest any such claim, which shall be tried, proper notice having been given to such creditor, returnable at the next term. The court may order the assignee to make dividends to the creditors from time to time, and also to make reports. The assignee shall dispose of all personal property within 6 months of the date of the assignment, and of the real property within a year, unless the court extend the time. All claims presented



within the 3 months shall be paid in full before any others are paid. Debtors are not discharged.

**Kansas.**—No preferences are allowed. There shall be filed in the office of the clerk of the district court of the county in which such assignment is recorded, on the day it is executed, a verified schedule of the liabilities of the assignor, with the name of the creditor, the amount and character of his debt, and his post-office address, so far as known to such assignor. The clerk within 2 days next following the filing of such schedule shall mail to the post-office address, as given, of each creditor for more than \$10, a notice of the assignment, with the names of the assignor, the assignee, and all the creditors, and a statement of the amounts in the schedule, and name a day, not less than 20 nor more than 30 days from the day of such assignment, on which a meeting of the creditors will be held at the office of such clerk to choose an assignee; and until after such meeting the assignee named in the assignment shall exercise no powers except to safely keep the property coming into his hands. An assignee may be chosen by the greater part in value and in number of those attending or so represented. If no choice be made at such meeting, or if the person chosen fail to accept, the judge of the district court, or in his absence from the county the probate judge, appoints an assignee. An assignment does not discharge debts beyond the actual payments made.

**Kentucky.**—Preferences are not allowed, but debts due by the assignor as guardian, committee, trustee of an express trust created by deed or will, or as administrator or executor, are to be paid in full before the general creditors. Every sale, mortgage, or assignment, judgment suffered, act or device done by a debtor in contemplation of insolvency, and with design to prefer a creditor, operates as an assignment of all his property for the benefit of all of his creditors, and may be reached by petition filed within 6 months. There must be filed within 5 days from the execution a schedule of assets, and a list of creditors. The assignee must qualify before a county court, and within 2 months must give notice by publication of the time and place where he will receive claims. Personal property shall be sold by the assignee at public or private sale as the court directs; real property may be sold under order of the court. If creditors representing one-half in number and two-thirds of the amount of debts against the estate shall so request in writing, the court shall remove the assignee, and appoint another in his stead. An assignment does not release the assignor.

**Louisiana.**—Assignment for the benefit of creditors does not exist. Any person may make a surrender of his property to his creditors. The latter name a syndic (an assignee) who disposes of the estate as the creditors decide, and the proceeds are distributed ratably

by the court, except where there exist legal liens or privileges. Insolvent debtors may be discharged from all liability by a vote of a majority of all their creditors in amount and number, but defaulting receivers of public funds, unfaithful depositories, and those whose losses have been occasioned by gambling, dissipation, or debauch, cannot avail themselves of insolvent laws. Foreign creditors are not bound by insolvent proceedings unless participating in them; practically, however, only creditors whose claims are within the jurisdiction of the federal courts can escape the operation of the state insolvent laws.

**Maine.**—All statutes relating hereto were repealed by the insolvent law, which is now superseded by the national bankruptcy act.

**Maryland.**—Debtors making assignments with preferences, may be declared insolvent, if proceeded against within 4 months. No preferences are allowed, and claims are paid according to priority. Under the insolvent laws of the states, which are suspended by the United States bankruptcy act, a debtor who has not been guilty of fraud or bad faith and who is unable to pay his debts may be discharged from his liabilities, except those due to non-residents of the state, by surrendering all his property.

**Massachusetts.**—This state has an insolvent law similar in many of its provisions to the United States bankruptcy law. The probate courts are also courts of insolvency. The applicant must be an inhabitant of this state, and must owe at least \$200. To obtain his discharge, his estate must pay at least 50 per cent. of the debts proved, or a majority in number, and value of his creditors must, in writing, assent thereto within 6 months after the date of the assignment. Said discharge does not operate against a debt for necessities, or, excepting that he cannot be arrested or his after-acquired property attached, against a debt to a person not a resident in this state, or a debt founded on a contract made or to be performed without this state, unless proved against his estate. Neither does such discharge operate against certain fiduciary debts, nor those created by the fraud or embezzlement of the debtor, nor a claim for goods attached on mesne process, or taken on execution by the debtor as an officer or for malfeasance in office, but a dividend declared thereon shall be payment of so much thereof. Sales, pledges, assignments, or transfers of property by an insolvent debtor, made with a view to give a preference, within 6 months before the filing of the petition by or against him to a person having reasonable cause to believe such person insolvent or in contemplation of insolvency, and that the same is made to prevent the property from coming to the assignee in insolvency, and that the said sales or transfers are made with a view to prevent the distribution of said property among the general creditors, are void, and also a payment, pledge, assignment, or conveyance made by a person insolvent



or in contemplation thereof, within 6 months before proceedings are commenced, with a view to give a preference, if the person receiving the same or to be benefited thereby has reasonable cause to believe the person making same insolvent or in contemplation of insolvency; and that the same is made in fraud of the laws relating to insolvency; and the property, or the value of it, may be recovered by the assignee. A person who has accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of the statutes, shall not prove the debt or claim on account of which the preference was made or given, or receive any dividend thereon. The assignment to the assignee vests in him all the estate of the debtor, except that which is exempt from being taken in execution. Assignments for benefit of creditors are not valid as against insolvency proceedings, excepting that if made, accepted by the assignee, and assented to by a majority in number and value of creditors whose claims are neither secured nor privileged, and notice sent all creditors, and record of assignment, the assignee's acts in caring for and disposing of the property will be valid, and an assignee in insolvency shall be entitled to recover the net amount received therefor. Provision is made for a composition with creditors under the direction of the court. In the ordinary course of proceedings, it requires from 6 to 8 months to close an insolvent estate and reach payment of dividends, if any. There are three meetings at which creditors may prove claims. At the first, the assignee is chosen. The second is called within 3 months after the date of the warrant, and the third within 6 months after the appointment of the assignee. Under the composition act, the period before final settlement is reached is usually much shorter. In forwarding proofs of claims to be allowed in insolvency proceedings, the form of affidavit adopted by the courts must be used. Unless represented by counsel here, creditors desiring to prove a claim should send to the register of the court and procure proper blanks, whether for individual, firm, or corporation creditor. Originals of bills and notes, and itemized bills of merchandise accounts, must be annexed to the proof or affidavit. Copies of bills and notes will not serve, but such originals may, after claim is allowed, be taken from the files upon leaving a copy, and with permission of the register. The assignee is chosen at the first meeting of the creditors by a majority in amount of those whose claims have been proved and allowed. Non-resident assignees must appoint agent resident here for service of process. In the order for a dividend, the following claims shall be entitled to priority, and to be first paid in full in that order: (1) Debts due the United States and taxes. (2) Wages due an operative, clerk, or servant to an amount not exceeding \$100, for labor performed within 1 year next preceding commencement of insolvency proceedings. (3) Debts due physicians for medical attendance on the debtor or his family rendered

within six months preceding insolvency, not exceeding in amount \$50.

(4) Debts due to persons who, by United States laws or those of this state, are or may be entitled to priority or preference in like manner as if the chapter on insolvency in public statutes had not been enacted.

(5) Legal fees, costs and expenses of suit, and for custody of property when the debtor's property has been attached under mesne process, and not dissolved before commencement of insolvency proceedings. A small maintenance allowance may be made debtor from assets. Firms and corporations, including foreign, having their usual places of business here, except railroad and banking companies, may petition to be petitioned into insolvency. In the cases of foreign firms and corporations, the proceedings apply so far as any property in this state is concerned. Discharge not granted corporations. Grounds for involuntary proceedings are as follows: If a person arrested on mesne process in a civil action for the sum of \$100 or upwards, founded upon a demand in its nature provable against the estate of an insolvent debtor, has not given bail therein on or before the return day of such process, or has been actually imprisoned thereon for more than 30 days; or if a person whose goods or estate are attached on mesne process in such action founded upon such contract has not, before the return day of such process, dissolved the attachment in the manner provided by law; or if a person has removed himself or any part of his property from the state with intent to defraud his creditors, or has concealed himself to avoid arrest or any part of his property to prevent its being attached or taken on a legal process, or procured himself to be arrested or his property to be attached or taken on any legal process, or made a fraudulent payment, conveyance, or transfer of any part of his property, or, being a banker, broker, merchant, trader, manufacturer, contractor, builder, or miner, has fraudulently stopped payment, or has stopped or suspended and not resumed payment of his commercial paper within a period of 14 days, any three or less number of his creditors whose combined claims provable against his estate amount to \$100 may, within 90 days thereafter, or, in the case of any such fraudulent conveyance of real estate, within 90 days after the same has been recorded, if the debtor has resided in the state within 1 year, apply by petition to the judge for the county in which the debtor has last resided, or had a usual place of business, for 3 consecutive months before the application if he has resided, or has a usual place of business, for that time in any county, otherwise to the judge for the county within which he resides or last resided, or has or last had a usual place of business, setting forth the facts and the nature of their claims, verified by oath, and praying that his estate may be seized and distributed according to the provisions of this chapter. Ground upon which discharge is refused is as follows: Discharge not granted or valid if the debtor has wilfully sworn falsely as to any material fact in the course of the proceedings, or has fraudulently concealed



any part of his estate or effects, or any book or writings relating thereto; or has made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or spent any part thereof in gaming, or if within 6 months before the filing of the petition by or against him he has obtained on credit from any person any money, goods, chattels, or other thing of value, with intent not to pay for the same, or has procured his lands, goods, money, or chattels to be attached, sequestered, or seized on execution, or has destroyed, altered, mutilated, or falsified any of his books, documents, papers, writings, or securities, or has made, or been privy to the making, of any false or fraudulent entry in any book of account or other document with intent to defraud his creditors, or, with that intent, has expended, invested, or used any part of his property in the erection, alteration, repair, or location of building on land owned or leased wholly or in part by another, or has removed himself or removed or caused to be removed any part of his property from the state with intent to defraud his creditors, or if, having knowledge that a person has proved a false debt against his estate, he have not disclosed the same to his assignee within 1 month after such knowledge; or if, being a merchant or tradesman, he have not kept proper books of account; except when the total claims proved exceed \$5,000 and two-thirds in number and the majority in value of creditors assent in writing and the court orders.

**Michigan.**—An assignment is void unless it be of all the assignor's property not exempt from execution, and be without preferences. It must be acknowledged, and within 10 days it or a duplicate, a sworn inventory of the assigned property, and list of the assignor's creditors, and a proper bond by the assignee, must be filed with the clerk of the circuit court of the county where the assignor resides, or if he be not a resident of the state, where the assignee resides, or if neither be a resident of the state, then of the county where the assigned property is principally located. So much of the debt as is not paid by the assignee remains an obligation against the debtor. The law as to such assignments is suspended by the national bankruptcy act.

**Minnesota.**—The assignee must be a freeholder and a resident of this state. No preferences are allowed. The assignment must be filed in the office of the clerk of the district court where the debtor resides or does business. Within 10 days thereafter the assignor must file a verified account of his creditors and their claims. All proceedings are subject to the order and supervision of the judge of the district court, and such judge may, for cause shown, remove the assignee and appoint another. At least 20 days before the assignee shall make payment of any dividend or distribution of any such estate, he shall file with the clerk of the district court a statement under his oath of all creditors who have filed claims, with the

amount and nature of their claims. After paying the expenses of the assignee, creditors are paid in the following order: All debts owing to the United States and debts owing to the state of Minnesota, and all taxes and assessments; debts owing for wages of servants, laborers, mechanics, and clerks, for labor and services performed within 3 months next preceding the date of the assignment; all other debts of the creditor properly claimed and verified. Assignments are more frequently made under the state insolvent law.

**Mississippi.**—Preferences are allowed although the debtor may be insolvent. Assignments must be recorded. General assignments are administered in the chancery court; the assignee is made an officer of the court.

**Missouri.**—Preferences are void. Assignments must be recorded. Within 3 months after the assignment, the assignee must designate 3 consecutive days on which claims are to be presented to him for allowance, written notice of which must be given to every known creditor at least 4 weeks before the appointed day. Any creditor failing to present his claim during said term, on account of sickness, absence from the state, or any other good cause, may, at any time before the declaration of the final dividend, file and prove his claim and receive "the remaining dividends" paid. As soon as practicable, and not exceeding 1 month after the allowance of demands, the assignee must pay upon the demands allowed whatever the means on hand will permit, and as often thereafter as a dividend of 5 per cent. can be paid. The assignee is required to make report of his receipts and disbursements at every term of the circuit court. The assignee is a trustee for the benefit of the creditors of the assignor. The dividends received discharge the debt only *pro tanto*. There is no provision in the statute for composition proceedings.

**Montana.**—All claims of employees for services rendered within 60 days preceding the assignment, not exceeding \$200, are preferred claims and must be paid before any other creditor or creditors of such assignor. Preferences as to other creditors are allowed. The assignment must be recorded within 20 days after the execution thereof and must be accompanied by the affidavit of the assignor and assignee that such assignment is made in good faith. The assent of the assignee must be indorsed thereon. If not so executed and recorded, it is void. Within 20 days after the assignment a verified schedule of assets and liabilities must be made and filed. Within 30 days from the assignment, the assignee must enter bond, and within 6 months he may be required to account to the district court. He is at all times under the direction of the court, and may for good cause shown be removed.

**Nebraska.**—Assignments must be made to the sheriff of the county. They are void in the following cases: If a preference be



given, except to any one person for not more than \$100 for labor and wages; if they require any creditor to release or compromise his demand; if any interest be reserved to the assignor in the assigned property before payment of all existing debts; if any power be conferred upon the assignee other than provided by law. The assignee may maintain an action to set aside a fraudulent conveyance of the assignor. Transfers by an insolvent person in contemplation of insolvency, and within 30 days of making the assignment, to a person having reasonable cause to believe the assignor insolvent, are void, and the assignee may recover the property. An assignment must, within 24 hours after its execution, be filed for record in the clerk's office of the county in which the assignee resides. Within 30 days after the execution thereof it must be filed for record in every other county in the state in which it purports to convey real estate. Failure to comply with the statutes avoids the assignment. Within 10 days an inventory of creditors, debts, and property must be filed. Upon receipt of the inventory, the county judge is required to appoint a day, not more than 15 days thereafter, for a meeting of the creditors, who must be notified by publication and by the mailing of a copy of such publication. At the time and place fixed in the notice, the creditors meet to choose an assignee, who must be elected by the vote of creditors representing a majority of the gross indebtedness, and also, by one-third of all the creditors. Only creditors who have verified their claims on oath can vote. If no assignee be elected, the sheriff executes the trust. Claims must be filed on the day fixed by the county judge, not more than 60, and not less than 30, days after the meeting of the creditors, of which time notice must be given to the creditors.

**Nevada.**—Any person owing debts to an amount not less than \$500, who has resided in the county where the application is made not less than a year preceding such application, may turn over all his property (except such as is exempt by law) to creditors and be discharged, unless fraud be shown or preference be given. The application must have annexed a schedule containing a list of his debts and liabilities, the names of creditors, if known, the amounts due each, the cause and nature of the indebtedness, and where it accrued.

**New Hampshire.**—Assignments are made to the judge of probate for the county in which the debtor resides, and are for the benefit of all creditors. In case the debtor owe \$300 and be insolvent, he may be compelled to assign on petition of creditors. The assignee, within 10 days of the execution of the assignment to him, must file a copy thereof in the probate office of the county where the debtor resides. Creditor's claims are to be filed within 2 months from the assignment. Final distribution is made within 1 year. Claims to the amount of \$50 for labor performed within 6 months of the assignment

by employees of the debtor must be paid in full. If the estate pay 70 per cent. of the claims proved, the debtor may be discharged; if a less percentage be paid, the consent in writing of three-fourths of the creditors holding three-fourths of the indebtedness is required.

**New Jersey.**—Assignments are made under the insolvent law. Wages of clerks, minors, mechanics, and laborers, due at the time of the assignment, are preferred. No other preferences are allowed. The assignment must be recorded in the office of the clerk of the county where the debtor resides, and also where his real property is situated, after the surrogate has indorsed upon it the receipt of the bond required of the assignee; he must file a list of the claims presented to him within 3 months after the assignment, and the creditors must file exceptions within 30 days. The assignee proceeds under the direction of the orphans' court. The debtor is discharged from all claims proven, except upon proof of fraud. He has the benefit of exemption, as in execution.

**New Mexico.**—Every preference inures to the benefit of all the creditors. The assignee is required to appoint a day and place within 90 days, having given notice by publication for 4 weeks, and by mail to each creditor, to adjust claims; all creditors who then fail to present claims are barred; if the claim be rejected, the creditor must bring suit within 30 days thereafter. The assignee must settle the estate within 12 months. The deed of assignment must be acknowledged and recorded as in the case of deeds of real estate.

**New York.**—Preferences are allowed only to the extent of one-third of the assigned estate left after deducting wages and salaries of employees preferred by law, and the expenses of executing the trust. Every assignment shall be in writing specifically stating the debtor's residence, his business, and his place of business. It must be acknowledged and recorded in the county clerk's office in the county where the debtor shall reside or carry on business. An assignment by copartners shall be recorded in the county wherein is their principal place of business. If real property be included in the assignment, a certified copy must be filed in every county where such realty is situated. The assent of the assignee subscribed and acknowledged by him shall appear in writing embraced in or at the end of or indorsed upon the assignment. The debtor at the date of the assignment or within 20 days thereafter shall cause to be made and delivered to the county judge of the county where the assignment is recorded an inventory and schedule containing a list of creditors, an inventory of the debtor's estate in full, accompanied by an affidavit by the debtor that the same is just and true. If the debtor fail to file such inventory within 20 days, the assignee must file one within 30 days after the date thereof, or within 60 days if so allowed by the court. Within 30 days,



the assignee must enter into a bond in an amount fixed by the county judge. The court has the power to remove assignees, and may require creditors to present claims within a period to be prescribed not less than 30 days from the last publication, notice thereof to be given by advertisement not less than once a week for 6 successive weeks. The assignment does not discharge the debtor from his debts.

**North Carolina.**—Debtors are permitted to make assignments, or deeds of trusts, with preference of particular creditors. Deeds of trust, to be valid against creditors or purchasers for a valuable consideration, must be recorded in the county where the land lies, or, if of personalty, where the grantor resides. Within 10 days, the trustee or assignee must file with the clerk a sworn inventory. Upon proof of the assignee's insolvency, unless he give bond in a sum double the value of the assets, the clerk may remove the assignee, and substitute another. The trustee must file quarterly accounts with the clerk and final account within 12 months.

**North Dakota.**—An insolvent debtor may, in good faith, assign to one or more assignees, in trust for his creditors, subject to the provision of the civil code relative to trusts and to fraudulent transfers, and to the restrictions imposed by law upon assignments by special partnerships, corporations, and by other specific classes of persons. Preferences, if any, inure to the benefit of all the creditors. The assignment is void against creditors, and purchasers and encumbrancers in good faith and for value, if the assignment be not recorded and the inventory filed within 20 days after the assignment. It is void against any creditor not assenting thereto if it provide for the payment of any claim known to the assignor to be false or fraudulent, or for the payment of more upon a claim than is known to be justly due, or if it tend to coerce the creditor to release or compromise his demand, if any interest in the assignor's property be reserved before all debts are paid; other than property exempt from execution, if any power be conferred on the assignee which might prevent or delay the immediate conversion of the assigned property to the purposes of the trust, and if it exempt the assignee from liability for neglect of duty or misconduct.

**Ohio.**—An insolvent debtor may make an assignment in trust for the equal benefit of all his creditors. All acts resorted to by a debtor in contemplation of insolvency, or with intent to prefer some creditors, or hinder others, shall be declared void at the suit of any creditor. The assignee within 10 days after the delivery of such assignment to him must file the same or a copy thereof in the probate court of the county where the assignor resides. The assignment takes effect only from the time of its delivery to the probate judge. The assignee or trustee shall give notice of appointment within 30 days. Creditors must present their claims duly proven within 6 months after notice.

Dividends shall be declared and paid by the court after the expiration of 8 months from the appointment. Wages due an employe for 12 months preceding the assignment not exceeding \$300, and taxes, have a preference. Assignors are not discharged by the assignment.

**Oklahoma.**—An insolvent debtor may, in good faith, execute an assignment to one or more assignees in trust for the benefit of his creditors. Preferences are not allowed. The property is disposed of by the court for the benefit of all the creditors *pro rata* according to their respective claims. The assignment must be recorded within 20 days.

**Oregon.**—The assignor names the assignee in the first instance, but, if dissatisfied, the creditors may choose one by petitioning the court to order the clerk of the court to call a meeting of creditors. No general assignment of property by the insolvent, or one contemplating insolvency, is good, unless made for the benefit of all creditors, *pro rata*. Assignments must be recorded, except in the case of personal property where the possession accompanies the conveyance of the property. The assignee must publish notice of his appointment, and mail a notice to each creditor to present his claim within 3 months. On final settlement of the estate, the court may discharge the debtor from further liability, if he be guilty of no fraud, and his estate have paid 50 cents on the dollar.

**Pennsylvania.**—It is provided by statute, that if any person, persons, firm, limited partnership, joint stock company, or corporation, being insolvent or in contemplation of insolvency, with a view to give a preference to any creditor or person having a claim against, or who is liable for such insolvent, shall procure an attachment or the like to be levied upon his property, the judgment or encumbrance shall inure to the benefit of all creditors, if an assignment for the benefit of such insolvent be made or proceedings in insolvency be commenced within 4 months. If the insolvent collude with a creditor to give a preference, the attempted preference will be set aside if proceedings be instituted within 4 months. *Knowledge of Intent.*—The statute provides what shall constitute a presumption of knowledge of intent on the part of the creditors. Any person, firm, etc. may make an assignment for the benefit of creditors, and an assignment of a portion of the insolvent's property in trust is to be deemed an assignment of the whole estate. *Assignment of Assets.*—Any member of a partnership, limited or otherwise (except partners in a joint stock company, or one or more joint, or joint and several debtors) may make an assignment of the assets "in which he or they are interested with others" for the benefit of their creditors; but any other person jointly and severally interested in said assets may within 15 days after notice thereof, upon petition to the court and with notice to the



assignor, give security to indemnify and save harmless the assignors, and to pay all debts or to obtain the release of the assignor therefrom, within such time as the court may designate—not exceeding 6 months. Upon this being done, the assignee shall transfer to those entering security all the assets passing by the assignment. It is further provided that any person arrested on civil process may make an assignment for the benefit of his creditors, and may thereupon present his petition to the court praying a rule to show cause why he should not be discharged from arrest. The defendant may be discharged during the hearing by entering security. Any creditor of an alleged insolvent may by petition aver that such person, firm, etc. has not made an assignment for the benefit of his creditors, and is resident or is carrying on business in said county, and (1) has called a meeting of his creditors, for the purpose of compounding with them, or has exhibited a statement showing his inability to meet his liabilities, or has otherwise acknowledged his insolvency; (2) that he has absconded, is about to abscond, with intent to defraud any creditor, or to defeat or delay the remedy of any creditor, or to avoid being arrested or served with legal process, or conceals himself within, or remains out of, the commonwealth, with like intent; (3) that he secretes, or is about to secrete, any part of his estate or effects, with intent to defraud his creditors, or to defeat or delay their demands, or any of them; (4) that he has assigned, removed, or disposed of, or is about to assign, remove, or dispose of, any part of his property with intent to defraud, defeat, or delay his creditors, or any of them; (5) that he has been actually imprisoned for more than 30 days under process in a civil action, or, being arrested therefor, has escaped from custody; (6) that he has refused or neglected to comply with any order, judgment, or decree for the payment of money, and that an execution therefor has been returned unsatisfied; (7) that he has suffered or permitted any attachment or sequestration to remain against any of his property without attempting to dissolve, by rule taken for that purpose, or upon entering security for a period of 30 days, or, having taken a rule to dissolve which has been discharged by the court, has not entered security within 20 days thereafter; (8) that he has made any pledge, assignment, transfer, conveyance, or encumbrance of the whole or a large part of his stock in trade or property, without being able to meet his liabilities and without the consent of his creditors, either in payment of, or as security for, a debt then existing, or with the intent to prefer one creditor to another, or out of his usual course of business, or for the benefit of himself or family. Whereupon the court shall grant a rule to show cause why a receiver should not be appointed for the estate of such alleged insolvent, and all legal proceedings there against, if any, be vacated and set aside. *Proceedings Founded on Malice.*—If proceedings against the alleged insolvent be malicious, damages in double the amount of the injury sustained by the alleged insolvent



may be recovered. The alleged insolvent must furnish a schedule of the assets of the debtor and a list of creditors and the amounts of their respective claims, with a list of judgments against the insolvent, who must attach thereto an oath in a form prescribed. The insolvent must also deliver to the assignee or receiver all his assets, including all books of accounts, patents, copyrights, agreements, etc. A meeting of the creditors is required to be called for the purpose of selecting an additional assignee or assignees. The insolvent may be examined under oath concerning the assets of his estate. No objection to such examination shall be made on the ground that a disclosure would tend to bring the witness into contempt or disgrace or convict him of crime, but the information thus obtained shall not be used against him in any other proceedings. An assignee or receiver may compound or compromise any debt or claim due to the insolvent. Nothing in the statute shall be taken or understood as discharging an insolvent from liability to such of his creditors as do not choose to exhibit their claims, or who, before the schedule of distribution is made or filed, withdraw their claims. But with respect to creditors who exhibit their claims before a voluntary assignee or an auditor appointed in such case and do not withdraw them, as aforesaid, they shall be wholly debarred from maintaining afterwards any claim existing at the time of the assignment, whether due or not, unless he shall aver and prove: (1) That said action is founded on the actual force, fraud, malice or deceit of the insolvent; (2) that said action is founded on the embezzlement or malfeasance of the insolvent, or for libel, slander, malicious prosecution, conspiracy, seduction, or criminal conversation; (3) that said action is founded on the purchase by the insolvent of real and personal property, on credit and without security therefor; (4) that such insolvent has wilfully sworn falsely in any material fact appertaining to the settlement of his estate, or has failed and refused to make all necessary conveyances to enable the assignee to speedily and effectively settle the same; (5) that such insolvent fraudulently secreted, altered, injured, defaced, or destroyed any part of his estate, or any books, documents, muniments of title, or writings appertaining thereto, or permitted the same to be done, or has secreted, conveyed, or encumbered any part of his property, for the benefit of himself or family, or has collected and retained any of the assets of the assigned estate, or, in contemplation of insolvency, has failed to keep the books of account and papers usually kept by him in his business; (6) that such insolvent has made any promise of future advantage to any creditor, or has knowingly permitted others to do so, to induce any creditor to participate in the settlement of the assigned estate, and has failed to disclose the same to the complaining creditor; (7) that such insolvent, while knowingly insolvent or in contemplation of insolvency, has in any manner preferred or attempted to prefer, one creditor to another, or permitted such preference to be obtained

by judgment, execution, attachment, sequestration, or otherwise; (8) that such insolvent has knowingly permitted a false or exaggerated claim to be made against said estate; (9) that such insolvent has absented himself or concealed his property to avoid an execution; (10) that the insolvency arose from losses by gambling, or in the purchase of lottery tickets; (11) that such insolvent has previously been an insolvent, and obtained a release of his debts under the provisions of the insolvent laws. It is provided, however, that the benefits of this section shall not apply in favor of any insolvent who was forced into the hands of a receiver by the action of the creditors. Provision is made for the release of persons secondarily liable. When a majority in number and value of the creditors of an insolvent who has made a voluntary assignment for the benefit of his creditors shall consent in writing thereto, it shall be lawful for the court to make an order that the state and effects which such insolvent may afterwards acquire shall be exempted for the term of 7 years thereafter from execution for any debt, contract, or cause of any action existing previously to such assignment. If any insolvent or his legal representatives shall satisfy the undisputed claims of his creditors and shall give security, to be approved by the court, to pay those who are disputed, the court shall order his estate and effects not sold to be restored to him or his legal representatives, and he shall by virtue of such order, be seized and possessed thereof, as of his former estate and title thereto.

**Rhode Island.**—An assignment for the benefit of creditors by an inhabitant of this state is an act of insolvency. No assignment of future earnings shall be valid, except as between the parties thereto, until the same has been recorded. Any person, copartnership firm, or corporation, doing business in this state, that is insolvent and owes debts to the amount of \$300 or more may make a voluntary petition under oath to the appellate division of the supreme court for relief as an insolvent. With the petition is to be filed an exhibit containing a statement of indebtedness and a schedule of all property, assets, and estate, except such property, other than bills of exchange and promissory notes, as is exempt from attachment by law. The filing thereof is an act of insolvency, and, on proof of the facts therein stated to the satisfaction of the court, such petitioner shall be judged an insolvent. Creditors holding not less than one-fourth of the whole amount of the debts of any person or corporation, may prefer a petition against such debtor and, by substantiating certain allegations, may cause involuntary proceedings of insolvency to be taken. Assignees are appointed who shall give bond.

**South Carolina.**—The debtor names his assignee, and the creditors afterwards chose an agent to act with him. No preferences are allowed in assignments except as to debts due the public, and except as to those creditors who within a given time agree to accept



the dividends under the assignment as in full of their claims, and execute a release. Any transfer or assignment to secure an antecedent debt, made to any creditor cognizant of the debtor's insolvent condition within 90 days previous to the date of the assignment for the benefit of creditors, is void. A committee of creditors chosen by the creditors has supervisory control. The debtor is not discharged as to creditors not preferred and not releasing.

**South Dakota.**—There are restrictions upon assignments by special partnerships, by corporations, or other specific classes of persons. Preferences are void. The assignment is void against creditors and purchasers and encumbrancers in good faith, and for value, if not recorded and the inventory filed within 20 days. Dividends extinguish the creditors' claims only *pro tanto*.

**Tennessee.**—Preferences are nugatory, but all the creditors share in the property assigned. Attempted preferences by transfer of property, confession of judgment, or otherwise, within 3 months preceding a general assignment, are void. Partial assignments for particular creditors are still good, if not followed by a general assignment within 3 months. The assignee, if the property exceed \$500 in value, unless released therefrom by the creditors, must give bond in a sum equal to the value of the estate.

**Texas.**—Preferences are not allowed. The assignee must give notice of his appointment within 30 days by publication of the fact in a newspaper for 3 weeks; he shall also give notice in person or by mail to each of the creditors so far as known. Creditors consenting must make known their consent in writing within 4 months from publication of the notice; provided, that a creditor who has had no notice may make known his assent at any time before distribution of assets. A creditor must file with the assignee, within 6 months from the date of the first publication, a distinct statement of the particular nature and amount of his claim, supported by affidavit, and no creditors shall take any benefit under any assignment who neglects to file such statement. There is no discharge of the debtor unless the estate pay  $33\frac{1}{3}$  per cent. of the claims.

**Utah.**—Particular creditors may be preferred. In all assignments, debts due for wages of servants or employes of the assignor for services performed within 1 year previous to the assignment are preferred claims. The assignee shall give notice of the assignment forthwith in a newspaper in the county published at least once a week for at least 6 weeks, and send notice by mail to each known creditor requiring presentment of claims under oath within 3 months. Claims must be filed within 3 months of the date of the first publication unless the court extend the time for 1 month or more, but in no case can an extension be beyond 9 months. Three months from the time of the



first publication the assignee shall file a report in writing, under oath, containing a list of the creditors who have filed claims, an affidavit of publication of notice, and a list of creditors and their residences to whom notice has been mailed, and date of mailing. Within 1 month after filing, any person interested may file written exceptions to any claim of a creditor to whom the clerk shall give notice, and not less than 10, and not more than 40, days after which the court shall try the issue and render judgment. Dividends, upon the order of the court, shall be made from time to time.

**Vermont.**—Assignments must be made for the benefit of all creditors, with no preferences. It is the duty of the assignor and the assignee to file in the county clerk's office in the county where the assignment is made, and the property assigned is situated at the time of making such assignment, a true copy of the assignment and of the inventory of the property assigned, including all choses in action, and of the list of creditors. An insolvent law, similar in its provisions to the United States bankruptcy act, and providing for voluntary and involuntary bankruptcy, is in force. The probate courts have jurisdiction. Preferences and attachments within 4 months are dissolved by the adjudication of insolvency. Discharges are not granted where the assets do not amount to 30 per cent. of the debts proved, unless a majority in number and amount of the creditors assent. The creditors elect the assignee. Claims may be proved before a judge of any court, justice of the peace, notary public, or master in chancery.

**Virginia.**—Insolvents may voluntarily assign their estates for the benefit of creditors, or a preferred creditor. Limited partnerships cannot in general create preferences among creditors. Even though the assignment be for the benefit of all, the debtor will not be discharged except as to those who assent.

**Washington.**—No preferences are allowed. Upon it appearing to the satisfaction of the court, upon the final report of the assignee, that the assignor has been guilty of no fraud in making the assignment nor concealment or diversion of any part of his property in order to keep it beyond the reach of his creditors, and has acted fairly and justly in all respects, and that the estate has been made to realize the fullest amount possible, and that the expenses of the assignment have been paid, every insolvent debtor may be discharged from liability on account of any indebtedness existing prior to the making of the assignment.

**West Virginia.**—If the debtor be solvent, preferences are allowed; if insolvent, preferences inure to the benefit of all the creditors, if a creditor of such insolvent institute a suit in chancery within 1 year to set aside the same. The assignee need not give bond unless a creditor demand it. If demanded, he must give bond in 20 days, or

another may be appointed instead. An assignment does not give the debtor full discharge unless so agreed by his creditors.

**Wisconsin.**—The assignee must be a resident of the state. Chattel mortgages or other transfers of all the debtor's property with trust agreement back to the debtor have been held to be general assignments. Employes' wages earned within 3 months are preferred by statute, and may be preferred expressly within 6 months prior to the assignment; other preferences are invalid. A true copy of the assignment must be filed in the office of the clerk of the circuit court, and an inventory filed within 20 days thereafter. Proof of claims by creditors must be filed with the assignee or clerk of the court within 3 months after publication and notice by mailing, which must be 12 days after the assignment; within 6 months, unless the time be extended, the assignee shall file his report.

**Wyoming.**—Any debtor in embarrassed circumstances may make a general assignment for the benefit of his creditors. Wages of employes for a period of 3 months prior to the assignment shall constitute preferred claims; no other preferences are allowed. Claims of all creditors shall be presented to the assignee for allowance within 6 months from the publication of the notice of the assignee's appointment. Any creditor accepting a dividend must release the assignor from all further liability.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Preferential assignments are void. Wages for 3 months are preferred. Notice of the assignment must be published by the trustee within 14 days after the assignment, and a meeting of creditors called within 10 days.

**Manitoba.**—Debtors may make voluntary assignments for the benefit of all creditors. A majority of the creditors may compel a transfer of the assignment to the official assignee.

**New Brunswick.**—Assignments are made in the first instance to the sheriff, or to a resident of the debtor's county named by a majority of the creditors having claims of \$100 and above. A new assignee may be substituted by a vote of the creditors. There must be no preferences. Notice must be given in 5 days, and a meeting of the creditors called in 12 days. Claims against the estate must be proved within 3 months after the notice.

**Nova Scotia.**—Preferential assignments are abolished. Employes' wages for 3 months are preferred. Every confession of judgment, or transfer of property intended as a preference of creditors, is void.

**Ontario.**—Any person may make an assignment for the benefit of his creditors to the sheriff of the county; or to any other permanent

resident of the province, with the assent of the creditors. A preference made by a debtor which has the effect of defeating any creditor is presumed to be fraudulent, and is void if attacked within 60 days, or if followed by an assignment within 60 days. The assignee must send notice of the assignment to all the creditors to present and prove their claims. A debtor cannot obtain a discharge without the consent of every creditor.

**Quebec.**—A trader cannot give one or more of his creditors a preference over the other creditors by chattel mortgages, bills of sale, or otherwise. Every trader who has ceased payments may be required by his creditors to make an abandonment of his property for their benefit. The creditors appoint a curator and inspectors who, under the direction of the court, distribute the estate.



## BANKS AND BANKING

Banks, in the United States, are usually incorporated under general statutes, although, in some states, it is not unusual to incorporate them under special acts or charters. In the digest of statute laws in respect to banks that follows, the manner of incorporation and the requirements as to capital stock are generally stated. The digest of the statute law as to corporations, in this volume, is important as a subject of reference in connection with the subject of banks.

**Alabama.**—*Constitutional Provision.*—The general assembly is prohibited from incorporating banks to issue bills of credit or bills payable to order or bearer, except as below. No bank can be established otherwise than under a general banking law and upon a specie basis; provided, that any bank may be established with authority to issue bills to circulate as money in an amount equal to the face value of bonds of the United States, or of this state, convertible into specie at their face value, which shall, before such bank is authorized to issue its bills for circulation, be deposited with the state treasurer, or other depository prescribed by law, in amount equal to the aggregate of such proposed issue, with power in such treasurer or depository to dispose of any or all of such bonds for a sufficient amount of specie to redeem the circulating notes of such bank at any time and without delay, should such bank suspend specie payment or fail to redeem its notes on demand. Bills and notes issued as money are redeemable in gold and silver. No law is to be passed sanctioning suspension of specie payments. Holders of bank notes and depositors, who have not stipulated for interest, are entitled, in case of insolvency, to preference over all other creditors. No bank shall receive a greater rate of interest for lending money than is allowed by law to individuals. A bank must cease operations within 20 years from the time of organization unless such time be extended by law, but, like other corporations, it has corporate capacity to sue and be sued after such cessation until its affairs shall be fully closed. Neither the state nor any political subdivision can hold stock in or lend credit to any bank. Banks are subject to examination of their affairs by a public examiner and must report twice a year, under oath, their resources and liabilities. The above provisions apply to all banks except national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not. *Statutory Provisions.*—Foreign corporations invested with the privilege of banking must exercise the same by

the exclusive use of gold and silver coin and national bank notes or other currency of the United States. Banks of deposit and discount are incorporated under the general laws of the state. No certificate of deposit issued by any bank for any special deposit for which interest is to be paid must be reissued, but, on the return thereof, must be canceled. A married woman or minor may make deposit of his or her earnings or savings in bank, and such deposit shall be paid only to such married woman or minor on his or her order, and not to the husband or parent or guardian. The amount of the capital stock with which the bank commences business shall not be less than \$25,000; and not less than 60 per cent. of the capital stock subscribed must be paid in cash.

**Alaska.**—See Corporations.

**Arizona.**—Banks of discount and deposit, but not of issue, may be incorporated under the general corporation law. The articles of incorporation, which shall contain the usual requirements of a corporation, must be published 6 days in a newspaper of the county of its principal place of business, and an affidavit of publication must be filed in the office of the secretary of the territory. Savings and loan associations may receive deposits of money, loan it on adequate security, safely invest it, and collect the same with interest; they may declare and pay dividends; own one lot and building not over \$100,000 in value; also, such other realty as is procured through loans, which must be sued within 5 years after the title is acquired. Married women and minors may make deposits and draw out their funds in their own names.

**Arkansas.**—State laws prescribe no special regulations for banking. Banking may be carried on by individuals, or by corporations organized under the general corporation law, but not by limited partnership. Any number of persons, not less than three, may associate in forming a banking corporation by stating the purposes of the corporation and by complying with the other requirements of the general corporation law.

**California.**—Banking may be carried on by any corporation organized for that purpose, by individuals, or by partnerships, except special partnerships. Every such corporation must, whenever required by the board of bank commissioners, make a report in writing to the commissioners, verified by the oath of its two principal officers. Such reports shall show the actual financial condition of the corporation at the close of any past day specified, and shall be required by the bank commissioners, from each and every corporation doing a banking business, at least three times in each year, and shall be transmitted to the commissioners within 15 days after the receipt from them of a request or requisition therefor, or pay the penalty of \$100 per day



during the time of default. Every foreign corporation or person, and persons not incorporated, who are engaged in the business of banking or publicly receiving money on deposit, shall comply with the foregoing provisions. Corporations organized for accumulating and loaning the funds of the members, shareholders, and depositors may loan and invest the funds thereof, receive deposits of money, loan, invest, and collect the same, with interest, and may pay depositors with or without interest. No such corporation is permitted to loan money except on adequate security on real or personal property, and such loan must not be for a longer period than 10 years. No savings banks shall loan to exceed 60 per cent. of the market value of any piece of real estate to be taken as security, except for the purpose of facilitating the sale of property owned by the corporation; and it is unlawful for savings banks to loan on the security of mining shares or stock, or invest in such shares or stock.

**Colorado.**—Any number of persons, not less than three, may establish a bank of discount and deposit, a savings bank, or a trust, deposit and security association, in this state, under the general incorporation law of the state. The minimum capital required for any of the above institutions ranges from \$25,000 to \$50,000, and must be fixed by the charter. Shareholders shall be held individually responsible for debts, contracts, and engagements of the bank in double the amount of the par value of the stock owned by them respectively. Any officer or agent of a bank who receives or assents to the reception of any deposit of money or other valuable thing by the bank, or creates, or assents to the creation of, any debt by such bank by which it receives money or property, after he has knowledge that the bank is insolvent, shall be guilty of larceny, and liable to imprisonment not less than 1 year nor more than 10 years.

**Connecticut.**—Bank and trust corporations can be organized only under special charter from the legislature; corporations cannot be organized under general law for either trust or banking business. Bankers and brokers are allowed to do business under their own names, but only duly incorporated bodies are allowed to advertise as a bank, put out such a sign, or receive deposits as a savings bank. The term *banks* includes all incorporated banks; the term *savings banks* includes, besides savings banks, all savings societies and societies for saving. Three-fourths of the directors of any state bank or of the trustees of any trust company shall be residents of the state. No director of a state bank or trustee of a trust company shall be obligated to any such bank or trust company to an amount exceeding 5 per cent. of its capital actually paid in and its surplus and undivided profits combined; and no such bank or trust company shall permit its directors or trustees to become obligated to it to an amount exceeding at any one time in the whole the sum of 20 per cent. of the capital actually paid in and



its surplus and undivided profits combined. No credit shall be given to any party for more than 15 per cent. of the capital stock paid in, together with the surplus, which provision, however, does not apply to loans secured by collateral. Every state bank and trust company shall at all times maintain a reserve fund of 15 per cent. of its aggregate deposits. The state has two bank commissioners whose duties are to visit and examine each state bank and trust company, semiannually or oftener, and to whom such banks and trust companies must make not less than five reports each year.

**Delaware.**—It is unlawful for any persons to associate in forming a banking company without incorporation. The banking business of the state is done principally by national banks and trust companies. The insurance commissioner has supervision of all banks (other than national banks), and also of other financial institutions, which are required to report their resources and liabilities to such commissioner twice during each year, which reports shall be published in a newspaper published in the place of establishment of such institution, or in one nearest such place in the county. Savings banks are required, annually, before July 1, to publish once a week for 3 weeks, in at least two newspapers in the state, statements, in detail, showing their financial condition.

**District of Columbia.**—Savings banks may be incorporated by three or more persons, who may make, sign, and acknowledge before an officer competent to take acknowledgments a certificate in writing stating the corporate name, the term of existence (which may be perpetual), the amount of the capital stock, the number of shares, the number of trustees and their names, who shall manage for the first year, and the name of the place in the District where operations are to be carried on, and file the same in the office of the Recorder of Deeds for the District of Columbia. No company so incorporated shall be authorized to transact any business until 10 per cent. of the capital stock shall have been actually paid in. The stockholders are severally and individually liable to creditors of the company for the unpaid amount due on their stock. All savings banks or companies are required to make reports to the comptroller of the currency.

**Florida.**—Banks may be established by five or more persons in any city or town having 3,000 or more inhabitants, with a capital of not less than \$50,000; in towns of less than 3,000 inhabitants, with a capital of not less than \$15,000. They may not begin business until 50 per cent. of the capital stock is paid in, and 10 per cent. further must be paid each month thereafter until the whole amount is paid. The state comptroller supervises the banks, which are required to make semiannual reports.

**Georgia.**—Banks may be chartered by filing a declaration with the secretary of state, by three or more persons, and complying with the act of December 14, 1895. Important regulations are prescribed by the act of December 16, 1895. If the assets of the bank are not sufficient to pay the debts, each stockholder is individually liable to the amount of his unpaid stock. All banks, on public notice by the governor, are required within 30 days, semiannually, to make returns to the governor, showing names of the presidents and directors, with a list of the stockholders and the amount of stock owned by each individual or company, the amount of assets, the amount due and owing, together with a full report of the condition of the bank; and for failure to make returns as required by law, certain penalties are prescribed.

**Idaho.**—Idaho has no law bearing on the formation or regulation of banks other than the general law of formation and control of corporations which have nothing to do with national banks.

**Illinois.**—There is a general law for the incorporation of banks, distinct from the general corporation law. Banks organized under this law are subject to inspection by the state auditor and required to make statements at the request of the state auditor. They have the usual powers of banks, except that they cannot issue bills to circulate as money. The capital stock required is granted according to population of the place, from \$25,000 to \$200,000. Stockholders are liable for the debts of the bank, over and above the amount of the stock held by them, to an amount equal to the shares held by such stockholders. Individuals are permitted to do a general banking business without being incorporated.

**Indiana.**—Any number of persons, not less than five, may form themselves into a corporation as a bank of discount and deposit. The capital stock must not be less than \$25,000, divided into shares of \$100 each; there shall be not less than three directors, to be elected by the stockholders, which directors shall elect one of their number president, and shall also appoint a cashier, who shall give bond for the honest and faithful discharge of his duties. The association so formed may commence business at any time after 50 per cent. of its capital stock has been actually paid in, and shall have all of the powers incident to the business of banking, excepting the issuance of bank notes intended to circulate as money. The bank may purchase such real estate as may be necessary for the accommodation of its business, or which may be taken by mortgage or convenience in payment of debts, but such property must be resold within 5 years. Stockholders are liable to the extent of the amount of their stock at par value, in addition to the amount invested in such shares. Savings banks may be organized by any number of persons, not less than seven nor more than twenty-one, who shall have been citizens for more than 5 years previously and



voters in the county in which the bank is to operate, and who shall severally own unencumbered real estate worth at least \$5,000; each incorporator to declare in the articles his acceptance of the trusteeship thereof. Each trustee must furnish to the state auditor a certificate from the judge of the circuit court of his fitness to serve as trustee. Trustees are empowered to select officers and agents, who shall furnish bonds. Investments are limited to the following: United States stocks, bonds, and treasury notes; Indiana stocks and bonds; legal orders and bonds of any Indiana county, city, or town; bonds or stocks of any other state that has for 5 years last past paid in lawful money the interest on its bonded debt; bonds or notes secured by mortgage on unencumbered real estate in Indiana worth, exclusive of perishable improvements, at least double the amount of such bonds and notes; negotiable notes or bills of exchange before maturity and having not to exceed 1 year to run from the date of purchase made or indorsed by two or more responsible freeholders of Indiana; provided, no such note or bill shall exceed \$10,000, and that not more than \$10,000 shall be lent on the same security. The mode of doing business is regulated in minute detail. It is unlawful for any partnership, firm, or individual to transact a banking business in this state unless such partnership, firm, or individual has property to the cash value of at least \$10,000. Before doing business as a private bank the interested persons must file with the auditor of state a verified detailed statement of the name of the bank, copy of partnership articles, or other agreement under which the business is conducted, place of business, amount of capital paid and to be kept at all times in the business, statement of the responsibility and net worth of the interested persons, and, if not disclosed in the partnership agreement, the names of officers, agents or employes in active charge of the bank's business. At least one of the interested persons must be at all times a resident of the state. A list of the owners, and any change therein, must at all times be kept posted in a conspicuous place in the bank room. Every private bank must make at least two reports yearly to the auditor of state on forms furnished by him. Depositors in such banks, in case of winding up, have a first lien on the assets thereof to the amount of their several deposits. A penalty of \$1,000 is imposed for the first violation of any of the provisions of the act, to which imprisonment in the state prison for a term not exceeding 2 years may be added for the second offense.

**Indian Territory.**—Any bank or trust company organized under the laws of any state may transact such business in Indian Territory as is authorized by its charter. The statutes at large of the United States provide that the national banking laws shall have the same force and effect in the territory as in the several states.

**Iowa.**—Any number of persons may be incorporated for the transaction of banking business, but such association must have



the word *state* incorporated in and made a part of the name of the incorporation; and any association not incorporated, partnership or individual, engaged in banking business, is prohibited from embracing or including in the name of such association, partnership or individual, the word *state*, provided this shall not apply to banking associations organized under the laws of the United States. The capital of such banks must not be less than \$50,000, except in cities or towns having a population of 3,000 or less, where they may be organized with a paid-up capital of not less than \$25,000. Corporations to be known as savings banks may be formed for the purpose of receiving on deposit the savings and funds of others, and preserving and safely investing the same, and paying interest or dividends thereon; and any number of persons, not less than five, may organize such savings banks with a paid-up capital stock of not less than \$10,000 in cities or towns of 10,000 inhabitants or under, and a paid-up capital stock of not less than \$50,000 in cities of over 10,000 inhabitants. All such savings banks with a paid-up capital stock of \$10,000 may receive deposits to the amount of \$100,000; those with a paid-up capital stock of \$25,000 may receive deposits to the amount of \$250,000; those with a paid-up capital stock of \$50,000 may receive deposits to the amount of \$500,000; those with a paid-up capital stock of \$100,000 may receive deposits to the amount of \$1,000,000; and no greater amount of deposits shall be received without a like proportionate increase of cash capital. Savings banks have no power to issue bank notes to circulate as money. It is unlawful for any bank or private person to advertise as a savings bank or savings institution, unless organized as a savings bank according to law. Whenever it shall appear to the state auditor that any savings bank has been guilty of violating the law, or is conducting its business in an unsafe manner, he shall, by an order addressed to such bank, direct discontinuance of such illegal and unsafe practices, and demand a conformity with the requirements of the law relating thereto; and whenever such savings bank shall refuse or neglect to comply with such order he shall notify the attorney-general of the state, whose duty it shall be to institute proceedings against such savings bank as may be authorized by law in cases of insolvent corporations. The state auditor may at any time make or cause to be made an examination of any bank, or call on it for reports of its condition on any given day that is past, as often as four times a year; which report the auditor shall cause to be published for 1 day in some daily newspaper published in the county where such association is located, or, if there be no such newspaper published in said county, then such reports shall be published in some weekly newspaper printed in said county for 1 week. The expenses of such publication shall be paid by such institution. All stockholders or shareholders in such banking association shall be individually and severally liable to the creditors thereof over and above the amount of stock held by them to an amount

equal to their respective shares so held, for all its liabilities accruing while they remained such shareholders. All shares of stock of such banking association shall be assessed to, and taxes paid thereon by, such banks, and not to the individual shareholders; but all shares of national banks shall be included in the valuation of the personal property of the holder thereof in the assessment of taxes in the place where such banking association is located, and not elsewhere, whether the holder thereof resides there or not.

**Kansas.**—Any five or more persons may organize themselves into a banking corporation to do a banking business, and may own a suitable building, furniture, and fixtures for the transaction of its business, not to exceed in value one-third of the capital of the bank; but the bank is authorized to hold and dispose of such real estate as it may acquire through the collection of debts due it. The capital stock shall not be less than \$10,000. The charter of the bank shall contain names and residences of its stockholders and amount subscribed by each, and such other provisions as are not inconsistent with the law. The charter must be subscribed by at least five of the stockholders, residents of Kansas, and must be acknowledged by them. The full amount of capital stock must be subscribed before the filing of the charter. The capital stock must be divided into shares of \$100, and all subscriptions thereto must be paid in cash, except in case of the reorganization of a bank, in which case the assets of the old bank worth par may be accepted in lieu of cash. No increase of capital stock of any bank can be made unless the same be actually paid in. Proper reports of any increase of capital stock must be made to the bank commissioner. The date and amount of such increase must also be certified to the secretary of state. A corporation doing banking business in this state may be dissolved by the district court of the county in which its place of business is located. A shareholder of every bank is additionally liable for an amount equal to the par value of his stock. The law specifies the amount of available funds banks must have on hand according to population of cities or towns in which such banks are located. Cash items shall not be considered as part of the reserve of any bank. Whenever available funds of any bank shall be below the required amount, such bank shall not increase its investments by making any new loan or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividends of its profits until the required proportion between the aggregate amount of deposits and its lawful money reserve has been restored. Any bank failing to make good its lawful money reserve within 30 days from notice to do so by the bank commissioner, shall be deemed to be insolvent. Savings banks or associations which do not transact a general banking business, shall be required to keep on hand at all times, in actual cash, a sum equal to 10 per cent. of their deposits, and also



to keep a like sum invested in bonds of the United States, or state, county, school district, or municipal bonds of the state of Kansas worth not less than par. Any bank may place its affairs and assets under the control of the bank commissioner by posting on its front door a notice that "This bank is in the hands of the state bank commissioner." The posting of such notice, or taking possession of any bank by the commissioner, is sufficient to place all assets and property of such bank in the possession of the commissioner, and to operate as a bar to any attachment proceedings. Any bank may voluntarily liquidate by paying its depositors in full; and, by filing affidavit with the bank commissioner that all its liabilities have been paid, and surrendering its certificate of authority to do business, it shall cease to be a subject to this act, but may continue to do a loan and discount business under its charter. The bank commissioner may examine such banks to determine that all liabilities have been paid. In this state, it is declared by statute that a bank is deemed insolvent: (1) When the actual cash market value of the assets is insufficient to pay its liabilities; (2) when it is unable to meet the demands of its creditors in the usual and customary manner; (3) when it shall fail to make good its reserve as required by law. A private banker cannot use the funds of a bank for private business, and the note of the owner of a private bank shall not be considered as a part of the assets of such bank. After the expiration of 1 year from closing of any incorporated bank, if it shall appear to the receiver thereof that the assets of the bank are insufficient to pay its liabilities, he shall institute proceedings in the name of the bank for collection of liability of the stockholders. All sums so collected shall become a part of the assets of the bank, and be paid to creditors pro rata, the same as other funds. No action of any creditor of the bank can be maintained against a stockholder unless it appear to the satisfaction of the court that the receiver has failed to commence the action as above. Any violation of the banking laws of this state, which constitutes a misdemeanor or felony, must be reported by the bank commissioner or his deputy to the county attorney of the county in which such bank is located, and, on receipt of such notice, it is the duty of the county attorney to institute proper proceedings to enforce the law.

**Kentucky.**—Banks may be incorporated by not less than five persons, with a capital stock of not less than \$15,000, and, if in a city of 50,000 or more population, of not less than \$100,000, of which 50 per cent. must be paid in before beginning business, and all within 1 year.

**Louisiana.**—State banks may be incorporated by not less than five persons, for any period less than 99 years. No special acts of incorporation can be passed. A bank may not hold real estate, except that necessary for the transaction of its business, for a longer period than



10 years. They must make quarterly reports to the state examiner of state banks. The parties composing a private bank are liable without restriction for all obligations; the stockholders of corporate banks are liable only for the amount of their respective shares. The stock must be fully paid up within 12 months. Corporate banks may issue paper money. Savings, safe-deposit, and trust banks, without power to issue bank notes, but with power to do a general banking business, may be organized with a capital of \$100,000 or more, of which at least \$100,000 must be paid in before beginning business. No stock shall be issued except for cash.

**Maine.**—Banks may be organized under general statutes, or by special charter. The circulation of a bank is limited to 50 per cent. of the capital and \$3 in excess for every \$1 held in specie. Banks are subjected at all times to examination by the state bank examiner. Savings banks have no capital, and do business only for the benefit of depositors under statute regulations restricting investments.

**Maryland.**—Prior to the passage of the act of 1870, which is a general act under which all banks must be incorporated, state banks were incorporated by special act of the legislature. In the city of Baltimore the capital stock of a bank must not be less than \$300,000, divided into shares of \$100 each; elsewhere, not less than \$50,000, divided into shares of \$100 each. The issue of bank notes must not exceed the capital stock paid in, and no note for less than \$5 is to be issued. Banks must render statements to the state treasurer on the first days of January and July of each year, which reports must be published in the newspapers of the city or county where the bank is located. Directors are liable for debts in excess of capital stock, or if they impair the capital stock.

**Massachusetts.**—The statutes authorize the formation of banks of deposit, but no such banks are known to be in existence under the act. Safe-deposit, loan, and trust companies may be and are incorporated by special act of the legislature; savings banks receive deposits from any persons, not exceeding in the gross \$1,000, and allow interest thereon as well as on the accumulated interest until the whole amounts to \$1,600.

**Michigan.**—Banks of deposit and discount, or for savings, may be organized under the general banking law by not less than five persons, with a capital graded, according to the population of the place where located, from \$15,000 to \$100,000 or more, for a period not to exceed 30 years. The reserve must be 15 per cent. of the deposits, or 20 per cent. in cities over 100,000 population. The commissioner of the state banking department must examine each bank at least once a year, and to him each bank must make verified reports four times each year, which reports shall be published in the newspapers

of the respective localities. Trust, deposit, and security companies may be incorporated by not less than seven persons, with a capital stock of not less than \$300,000, or, in cities of less than 100,000, of not less than \$150,000. The liability of stockholders and provisions for supervision by the state are the same as in the case of other banks.

**Minnesota.**—Banks may be incorporated by not less than three persons, with a capital stock graded, according to the population of the place where located, from \$10,000 to \$25,000 or more, all of which must be paid in cash before beginning business. The reserve must be an amount equal to 20 per cent. of all the immediate liabilities. The total liabilities of any one party to any bank must not exceed 15 per cent. of the capital and surplus, or of a director more than 10 per cent. Quarterly reports must be made to the state superintendent of banks, which reports must be published in a newspaper at the place where the bank is situated.

**Mississippi.**—A general banking act is in force. No more than one-fifth of the amount of capital can be loaned to one party. There is no provision for state supervision, but banks must make verified reports not less than four times each year to the state auditor, which must be published in the newspapers where the bank is located. It is a criminal offense for a bank to move or conceal its assets to defraud creditors, or, knowing the bank to be insolvent, to receive deposits without informing the depositors of such condition.

**Missouri.**—Banks may be incorporated by not less than five persons, with a cash capital of not less than \$10,000 nor more than \$5,000,000, or in cities of over 150,000 inhabitants, of not less than \$100,000. The stock is divided into shares of not less than \$100 each, one-half of which must be paid in when the articles of incorporation are acknowledged and the other half within 1 year. No person or company of persons may engage in banking as private bankers without a paid-up capital of not less than \$5,000. Loans of more than 25 per cent. of the capital stock to any one party are forbidden. Examinations of banks, including private banks and trust companies, under the supervision of the secretary of state are provided for, and in his office must be filed verified reports of the bank's condition whenever by him required, but not less than twice in each year. Trust companies with the usual powers may be organized by three or more persons, with a capital stock of not less than \$100,000 nor more than \$10,000,000.

**Montana.**—Banks may be incorporated by not less than three nor more than thirteen persons, with a capital of not less than \$20,000. The limit of liability by any one party to a bank must not exceed 15 per cent. of the capital. A bank must keep 20 per cent. of immediate liabilities in available funds. Reports must be made to the state



auditor. Savings banks, also trust, deposit, security, and loaning companies, may be incorporated by three or more persons, with a capital of not less than \$100,000 nor more than \$500,000. Savings banks must make full reports quarterly to the state auditor.

**Nebraska.**—Any corporation, partnership, or individual may transact a banking business by first obtaining permission from the state banking board. The capital required is graded, according to the population of the place where located, from \$5,000 to \$50,000 or more. Not more than 20 per cent. of the capital may be loaned to any one party. The reserve must be at least 15 per cent. of the aggregate deposits, and in cities of over 25,000 inhabitants, 20 per cent. Every bank must make quarterly verified reports to the state board, which reports are to be published in a local newspaper. Savings banks must have a capital of not less than \$12,000, and in cities of over 25,000 inhabitants, not less than \$25,000. Their reserve shall be 5 per cent. of the aggregate deposits. No savings bank shall receive deposits exceeding ten times its paid-up capital and surplus.

**Nevada.**—There are no state banking laws, and no examinations are provided for; nor are there any requirements for public statements showing the condition of banks, nor for returns to any state official. The state constitution prohibits the circulation of bank notes or paper of any kind as money, except the federal currency and national bank notes.

**New Hampshire.**—Banks can be chartered only by a special act of the legislature. Once every year a thorough examination shall be made into the condition and management of every bank, building and loan association, and trust company by one of the three state bank commissioners. Every state or private bank shall make verified reports quarterly to the secretary of state. Savings banks are under the supervision of the banking commissioners. They must keep a reserve equal to 5 per cent. of deposits. They cannot loan to any persons more than 10 per cent. of deposits.

**New Jersey.**—Seven persons may be incorporated as a bank of discount, with a minimum capital of \$50,000, under the general banking act of the state, and, on depositing with the state treasurer approved securities, the corporation may receive from that official bank notes to an equal amount for circulation. Business may be carried on only at the place named in the certificate of incorporation. Banks may loan money on real or personal property as security; may hold such real estate as is necessary for their business; must publish a report of their condition four times each year under penalty of \$100 for each day's delay. An annual statement under ten heads is required under penalty of dissolution. Banks are under the supervision of the department of banking and insurance.



**New Mexico.**—Commercial banks, as well as savings banks, may be incorporated by not less than three persons, with a capital of not less than \$30,000, of which 50 per cent. must be paid in before beginning business, and the remainder within 1 year. Every bank must make statements to the territorial treasurer of its condition on the first Monday in January and July of each year, and publish the same. Stockholders of commercial banks are liable for only two-fifths of the amount of the capital stock actually paid in and remaining undiminished by losses or otherwise. Stockholders in savings banks are individually liable to the extent of the par value of shares subscribed by them.

**New York.**—Banks may be organized under the general banking law by not less than five persons, with a capital stock of not less than \$25,000. Loans to any person, firm, or corporation are limited to one-fifth part of the capital actually paid in and surplus. The reserve must be at least 10 per cent. of the aggregate amount of deposits, and in New York City 15 per cent. On the deposit of securities, a bank may issue notes for circulation. Banks are under the supervision of the banking department. The superintendent of the department appoints examiners of the banks, and to him each bank must make quarterly verified reports. Savings banks are to be examined at least once in every 2 years by the banking department. Their investments are restricted.

**North Carolina.**—The total liabilities to any state bank of any one party shall not exceed one-tenth of the capital paid in. All banks and bankers must make statements to the state treasurer at the same time the national banks are required to make such statements to the comptroller. An examination without notice is to be made annually by some person appointed by the state treasurer. Savings banks may be incorporated by not less than ten members. The continuous deposit of \$1,000 or more for a period exceeding 6 months previous to an annual meeting shall constitute such depositor a member of the corporation. The bank is managed by trustees and is subject to examination by a committee of the state legislature.

**North Dakota.**—No banking business can be done except under the general banking law. Banking is permitted by corporations only. Banks may be organized by not less than three persons, one-third of whom shall be residents of the state, with a capital according to the population of the place where located, but not less than \$10,000. Their corporate existence is limited to 25 years. The total loan to any one borrower must not exceed 15 per cent. of the capital paid in. The reserve must be 20 per cent. of the deposits. At least four reports to the public examiner must be made and published each year. Stockholders are liable to the extent of their stock and unpaid instalments.

auditor. Savings banks, also trust, deposit, security, and loaning companies, may be incorporated by three or more persons, with a capital of not less than \$100,000 nor more than \$500,000. Savings banks must make full reports quarterly to the state auditor.

**Nebraska.**—Any corporation, partnership, or individual may transact a banking business by first obtaining permission from the state banking board. The capital required is graded, according to the population of the place where located, from \$5,000 to \$50,000 or more. Not more than 20 per cent. of the capital may be loaned to any one party. The reserve must be at least 15 per cent. of the aggregate deposits, and in cities of over 25,000 inhabitants, 20 per cent. Every bank must make quarterly verified reports to the state board, which reports are to be published in a local newspaper. Savings banks must have a capital of not less than \$12,000, and in cities of over 25,000 inhabitants, not less than \$25,000. Their reserve shall be 5 per cent. of the aggregate deposits. No savings bank shall receive deposits exceeding ten times its paid-up capital and surplus.

**Nevada.**—There are no state banking laws, and no examinations are provided for; nor are there any requirements for public statements showing the condition of banks, nor for returns to any state official. The state constitution prohibits the circulation of bank notes or paper of any kind as money, except the federal currency and national bank notes.

**New Hampshire.**—Banks can be chartered only by a special act of the legislature. Once every year a thorough examination shall be made into the condition and management of every bank, building and loan association, and trust company by one of the three state bank commissioners. Every state or private bank shall make verified reports quarterly to the secretary of state. Savings banks are under the supervision of the banking commissioners. They must keep a reserve equal to 5 per cent. of deposits. They cannot loan to any persons more than 10 per cent. of deposits.

**New Jersey.**—Seven persons may be incorporated as a bank of discount, with a minimum capital of \$50,000, under the general banking act of the state, and, on depositing with the state treasurer approved securities, the corporation may receive from that official bank notes to an equal amount for circulation. Business may be carried on only at the place named in the certificate of incorporation. Banks may loan money on real or personal property as security; may hold such real estate as is necessary for their business; must publish a report of their condition four times each year under penalty of \$100 for each day's delay. An annual statement under ten heads is required under penalty of dissolution. Banks are under the supervision of the department of banking and insurance.



**New Mexico.**—Commercial banks, as well as savings banks, may be incorporated by not less than three persons, with a capital of not less than \$30,000, of which 50 per cent. must be paid in before beginning business, and the remainder within 1 year. Every bank must make statements to the territorial treasurer of its condition on the first Monday in January and July of each year, and publish the same. Stockholders of commercial banks are liable for only two-fifths of the amount of the capital stock actually paid in and remaining undiminished by losses or otherwise. Stockholders in savings banks are individually liable to the extent of the par value of shares subscribed by them.

**New York.**—Banks may be organized under the general banking law by not less than five persons, with a capital stock of not less than \$25,000. Loans to any person, firm, or corporation are limited to one-fifth part of the capital actually paid in and surplus. The reserve must be at least 10 per cent. of the aggregate amount of deposits, and in New York City 15 per cent. On the deposit of securities, a bank may issue notes for circulation. Banks are under the supervision of the banking department. The superintendent of the department appoints examiners of the banks, and to him each bank must make quarterly verified reports. Savings banks are to be examined at least once in every 2 years by the banking department. Their investments are restricted.

**North Carolina.**—The total liabilities to any state bank of any one party shall not exceed one-tenth of the capital paid in. All banks and bankers must make statements to the state treasurer at the same time the national banks are required to make such statements to the comptroller. An examination without notice is to be made annually by some person appointed by the state treasurer. Savings banks may be incorporated by not less than ten members. The continuous deposit of \$1,000 or more for a period exceeding 6 months previous to an annual meeting shall constitute such depositor a member of the corporation. The bank is managed by trustees and is subject to examination by a committee of the state legislature.

**North Dakota.**—No banking business can be done except under the general banking law. Banking is permitted by corporations only. Banks may be organized by not less than three persons, one-third of whom shall be residents of the state, with a capital according to the population of the place where located, but not less than \$10,000. Their corporate existence is limited to 25 years. The total loan to any one borrower must not exceed 15 per cent. of the capital paid in. The reserve must be 20 per cent. of the deposits. At least four reports to the public examiner must be made and published each year. Stockholders are liable to the extent of their stock and unpaid instalments.



**Ohio.**—In the present constitution of Ohio, adopted in 1851, it is provided that "No act of the general assembly authorizing associations with banking powers shall take effect until it shall be submitted to the people at the general election next succeeding the passage thereof, and be approved by all the electors voting at such election." The legislature has since passed no act coming within this provision of the constitution. The supreme court has decided that the phrase "associations with banking powers," as used in the constitution, relates only to banks of issue, and has held that an act passed in 1868, and commonly known as the building and loan association act, and another passed in 1873, to incorporate savings and loan associations, although not submitted to the people, are constitutional and valid. Under these two acts a number of institutions in the state, called banks, are doing a large business in receiving deposits and loaning money. There is no law prohibiting private individuals or partnerships doing a general banking business, except that of issuing currency.

**Oklahoma.**—A strict banking law is in force requiring all banks to incorporate. The banking board of the territory has supervision, and the banks must make regular reports.

**Oregon.**—Any private corporation, partnership, or individual may engage in the banking business as freely as in any other business. There are no statutes regulating banks nor any state supervision of banks, but the general rules of law covering banking apply to the banking business in this state. Section 1 of Article XI of the constitution of Oregon provides as follows: "The legislative assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution whatever; nor shall any bank, company, or institution exist in the state with the privilege of making, issuing, or putting into circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person, to circulate as money."

**Pennsylvania.**—Banks may be chartered by the governor on the application of three or more persons. The minimum amount of capital stock must be \$50,000, divided into shares of not less than \$50 each. At least 50 per cent. of the capital must be paid in before commencing business, and thereafter 10 per cent. of the whole must be paid monthly until all is paid. A bank chartered under the existing law has power to borrow or loan money, discount negotiable paper, and hold in trust or as collateral security for loans either real or personal property, but it can hold real estate only for use in the transaction of its business, such as shall be mortgaged to it to secure loans, and such as shall be purchased to secure debts owing to the bank. By an act passed in 1901, banks and banking companies are authorized to improve any real estate that they may hold for the accommo-

dation and transaction of their business, by the erection, renewal, and replacing of buildings thereon, and to derive rent therefrom. No cashier, clerk, or teller can be a director. No director can borrow more than 10 per cent. of the capital stock and surplus. The banking department, with the commissioner of banking at the head, has supervision over banks, trust companies, and building and loan associations. It is the duty of the commissioner, as often as he shall deem proper, to examine, or cause to be examined, the books and affairs of every such corporation. All stockholders in banks, banking companies, saving-fund institutions, trust companies, and all other incorporated companies doing business as banks, shall be personally liable for all debts and deposits to double the amount of the capital stock held and owned by each. An act of 1889 provides for the incorporation of savings banks without capital, the business of which is to be managed by a board of trustees.

**Rhode Island.**—State banks can be chartered only by special act of the legislature. Their organization is superintended by three commissioners appointed by the governor. There are only a few of these, most banks being national banks. State banks are not required to advertise statements of their condition, but they must report to the state auditor annually, between November 15 and December 15, the condition of their affairs. These reports are published by the state auditor upon their receipt. In most of the charters now in force is a provision making stockholders liable for all the debts of the bank.

**South Carolina.**—The legislature may not grant any special charter for banking, but banks may be incorporated under the general corporation law. The total amount loaned to one party must not exceed 10 per cent. of the capital and surplus, except by a two-thirds vote of the directors. The bank notes of any bank in circulation shall not exceed three times the bank's reserve of gold and silver coin and bullion. Reports to the comptroller-general and quarterly publication are required of all incorporated banks.

**South Dakota.**—Banks of discount and deposit, but not of issue, and loan, trust, and guarantee associations may be organized by not less than three persons. Capital stock must be at least \$5,000, or more, according to the population of the place where located, of which 50 per cent. must be paid in before beginning business. The reserve must be 20 per cent. of the deposits. At least four reports showing resources and liabilities must be made each year to the public examiner, who is ex-officio superintendent of banks.

**Tennessee.**—State banks may be chartered by five or more persons in the same manner as other private corporations, and, if they choose, may couple with the usual banking business the functions of a safe-deposit and trust company, and a title-guarantee company. No



real estate shall be held for more than 5 years that is not necessary for the transaction of the business of the bank. Directors must be citizens of the state, and no more than two-thirds of the directors of any bank can be stockholders therein. Each bank is required to make quarterly statements to the state comptroller of its condition, and these statements are published. The secretary of state is constituted a bank examiner, and is required to examine, quarterly at least, into the condition of every bank, and report thereon to the state comptroller. Stockholders are not liable except for the payment of stocks subscribed. Banks are authorized by statute, on certain conditions, to issue circulating notes of the denomination of not less than \$1, and not greater than \$1,000.

**Texas.**—The constitution of 1876 provides that no corporate body shall be created, renewed, or extended with banking or discounting privileges. A number of state banks chartered before this provision are still in business, but there is no state supervision over them, nor over private banks.

**Utah.**—Corporations to conduct commercial and savings banks, or banks having departments for both classes of business, may be formed by not less than five persons, with a capital of not less than \$25,000, or more than \$1,000,000. Private bankers must have a paid capital of at least \$10,000. The reserve must be 15 per cent. of the bank's commercial deposits and liabilities, or in cities of 25,000 population or more, 20 per cent. The reserve of the savings deposits must at least be 10 per cent. No loan shall be made to any person for more than 15 per cent. of the capital stock paid in. Every bank, corporate or private, shall make a report to the secretary of state at least four times a year, which report shall be published in a newspaper.

**Vermont.**—Banks of circulation, discount, and deposit may be formed under the general law by voluntary association of five or more persons, three-fourths of whom must be residents of the state. The capital must be not less than \$50,000 nor more than \$500,000. Savings banks, savings institutions, and trust companies are organized under special charters, but are regulated largely by the general law. Savings banks have no capital stock, while trust companies, though receiving savings deposits and usually denominated savings banks and trust companies, have a fixed capital, and the stockholders are liable additionally to the amount of the par value of their stock. The treasurer of every savings institution and trust company is required, on or before the 10th of July of each year, to report to the inspector of finance, showing accurately its condition at the close of business on the 30th of June.

**Virginia.**—Banks of circulation may be chartered by the corporation commission. They are subject to the general corporation laws. Banks shall not loan to one person or to one firm, including the loans



to the several members thereof, an amount exceeding one-tenth of the value of its capital stock. Once in 3 months the directors are required to examine and settle the accounts of cashiers. Statements of financial condition are to be rendered to the auditor of public accounts at such times, identically, as national banks are required to make their statements to the comptroller of the currency, and such statements (condensed) must be published in newspapers printed in the cities where the business is being carried on. On request of holders of one-fifth stock, the auditor of public accounts may appoint a special examiner to examine and report the condition of the bank.

**Washington.**—Banks may be organized under the general corporation law by not less than two persons, with a minimum capital of \$25,000, divided into shares of \$100 each, and three-fifths to be paid in before commencing business. Banks shall file yearly on the first Monday in June, with the state auditor, a verified report of their financial condition.

**West Virginia.**—Banks may be organized by not less than five persons, subscribers to the stock, with a capital of not less than \$25,000 nor more than \$500,000. A state bank examiner is appointed and required to examine the affairs of each bank between March and October of each year, and to publish a statement thereof in the county where the bank is located. Savings banks are not joint-stock companies. They are managed by a board of not less than thirteen trustees, whose responsibility and fitness is certified to by the judge of the circuit court of the county where the bank is located. A reserve of 10 per cent. of the deposits is required.

**Wisconsin.**—Banks may be established by not less than three adult residents of the state, with a capital of not less than \$5,000, or \$50,000, according to the population of the place in which the bank is to be located, the shares of stock to be \$100 each, and the period of incorporation not over 50 years. There are strict provisions as to cash reserve and limit of loans, and as to pledging the assets of the bank as security. Stockholders are individually liable to the amount of their stock after payment in full for the stock itself. There is a state banking department under the control of a commissioner of banking with broad powers of examination and supervision, whose duty it is to require a bank to make good any impairment of its capital on penalty of receivership proceedings to be brought after 60 days by the attorney-general. Strict reports to the commissioner and publication of financial condition are required under penalty. Mutual savings banks may be organized by from twenty to fifty persons, three-fourths of whom must reside in the county where the bank is located.

**Wyoming.**—Banks may be incorporated under general laws by not less than five persons, with a minimum capital of \$10,000, and a

maximum capital of \$100,000, according to the population of the place where located. The shares must be \$100 each, and 50 per cent. of the stock must be fully paid in before commencing business, the balance being required to be paid from time to time as the by-laws may direct. There must be not less than five directors, each of whom must own in his own name at least 1 per cent. of the stock up to \$200,000, and the  $\frac{1}{4}$  per cent. on the bank's capital over that amount; and the directors, collectively, must own at least one-fifth of the stock. Quarterly statements are required, which must be published in the nearest newspaper, and filed with the county clerk of the proper county and with the state auditor. The state examiner must examine and report on all banks incorporated under state laws, including savings banks and loan and trust companies, at least once a year.

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### THE BANKING LAW OF CANADA

**Incorporation and Organization.**—Under the bank act,<sup>1</sup> banks of deposit, discount, and calculation may be incorporated or chartered to not less than five nor more than ten provisional directors, who, for the purpose of organization, may receive subscriptions to the capital stock, which must not be less than \$500,000, divided into shares of \$100 each, \$250,000 of which stock must be paid to the minister of finance and receiver general. On payment thereof, the provisional directors are authorized to publish a call for a meeting of the subscribers to be held at the chief place of business of the bank, at which meeting the subscribers shall determine the day on which the annual general meeting of the bank is to be held, and shall elect a board of directors to be composed of as many persons as they think necessary, not less than five nor more than ten, to hold office until the annual general meeting in the next year succeeding their election. Regular directors being elected, the function of the provisional directors shall cease. Charters and acts of incorporation are continued in force until July 1, 1911.

**Qualifications of Directors.**—Each director is required to be a holder of the stock of the bank, the amount of his holding being gauged by the amount of paid-up capital stock of the bank as follows: Where the paid-up capital is \$1,000,000 or less, each director shall hold stock on which not less than \$3,000 has been paid; when the paid-up capital is over \$1,000,000, and does not exceed \$3,000,000, each director shall hold stock on which not less than \$4,000 has been paid; and when the paid-up capital exceeds \$3,000,000, each director shall hold stock on which not less than \$5,000 has been paid. A majority of the

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<sup>1</sup>Assented to May 16, 1890; entitled, An Act Respecting Banks and Banking, the short title of which is "The Bank Act."



directors of each bank must be natural-born or naturalized subjects of the sovereign.

**Increase and Reduction of Capital Stock.**—Provision is made in the bank act for increasing or reducing the capital stock, as may be determined by a by-law passed at the annual or any special meeting of the shareholders, which cannot become operative or effective until the treasury board issues a certificate of approval thereof, which cannot be issued unless application is made therefor within 3 months from the time of passing the by-law, or unless it appears to the satisfaction of the treasury board that a copy of the by-law, together with a notice of intention to apply for a certificate of approval, has been published for at least 4 weeks in the Canada Gazette, and in one or more newspapers published in the place where the chief office or place of business of the bank is situate. The treasury board in its judgment may refuse to issue such certificate. In case of an increase, allotment is first to "the then shareholders," and after 6 months to the public; in case of reduction, the liability of shareholders to creditors is in no way diminished. The capital shall not be reduced below the amount of \$250,000 of paid-up stock.

**Powers of Directors.**—The general powers of directors are to make by-laws and regulations (not repugnant to the bank act and laws of Canada) respecting the management and disposition of the stock, property, affairs, and concerns of the bank; also touching the duties and conduct of officers, clerks, and servants.

**Business and Powers of Banks.**—These include the right to deal in gold and silver coin and bullion, discount and lend money, make advances on the security of (and take collateral security for a loan made) bills of exchange, promissory notes, and other negotiable securities, or on the stock, bonds, debentures, and obligations of municipal and other corporations, whether secured by mortgage or otherwise, or Dominion, Provincial, British, foreign, or other public securities, and to engage in and carry on such business generally as appertains to the business of banking, to which end it may open branches, agencies, and offices. Excepted from the powers is the lending of money on the security of its own or the bank's stock, or on the security of land, ships, goods, wares, and merchandise. Real estate for its actual use and occupation only, and for the management of the bank's business, may be held by the bank, which may be sold, and other property acquired in its stead, for the same purpose. A bank may also purchase real estate offered for sale under execution, as belonging to any debtor of the bank, and may acquire absolute title to real estate mortgaged to it as security for debt; but real estate acquired in any way (except such as is required for the bank's own use) cannot be held for a longer period than 7 years from date of acquisition, when such real estate must be disposed of,



unless the time is extended by the treasury board for a further period of 5 years, making the whole period for holding such property 12 years. A bank may also take and hold, and dispose of, mortgages on real and personal, immovable or movable property, by way of additional security for debts contracted to the bank in the course of its business. Deposits may be received from any person, whatever his age, status, or condition in life, and whether qualified by law to enter into a contract or not, and the principal with interest may be repaid to the depositor without the aid or interlocation of any person or official being required; but if the depositor be a person who could not, under the law of the Province where the deposit is made, deposit and withdraw money without aid given by the bank act, the total amount of his deposit shall not at any time exceed \$500.

**Dividends.**—Quarterly and half yearly dividends may be declared, by the directors, of so much of the profits of the bank as may seem advisable to a majority of the directors, after 30 days' notice of the time of payment, the transfer books to close at a time not exceeding 15 days before payment of each dividend. Directors are made liable jointly and severally for wilfully and knowingly declaring any dividend or bonus by which the paid-up capital is impaired; and if any part of the paid-up capital be lost, the directors are required, if all the subscribed stock be not paid up, to make up the amount lost by calls on the shareholders, provided that, in any case in which the capital has been impaired, all net profits shall be applied to make good such loss. Dividends are limited to 8 per cent., unless, after making a dividend, the bank has a reserve fund equal to at least 30 per cent. of its paid-up capital. Before calculating the reserve, all bad and doubtful debts must be deducted. Forty per cent. of the reserve of the bank must be in Dominion notes under penalty of \$500 for each violation.

**Circulation.**—Notes payable on demand may be issued for circulation, but no notes for a less sum than \$5, or any sum which is not a multiple of \$5 can be issued. The total amount in circulation at any time shall not exceed the amount of the unimpaired paid-up capital. The penalties for circulating notes in excess of the authorized amount are: If the amount of the excess be not over \$1,000, the penalty is the amount of such excess; if over \$1,000 and not over \$20,000, the penalty is \$1,000; if over \$20,000 and not over \$100,000, the penalty is \$10,000; if over \$100,000 and not over \$200,000, the penalty is \$50,000; if over \$200,000, the penalty is \$100,000. Provision is further made by act amendatory of the bank act, that, notwithstanding Section 51 of that act, any bank to which that act applies may issue and reissue, at any office or agency of the bank in any British colony or possession other than Canada (if not forbidden by the laws of such colony or possession), notes of the bank payable to bearer on demand, and

intended for circulation in such colony or possession, for the sum of 1 pound sterling each, or for any multiple of such sum, or for the sum of \$5 each or any multiple of such sum, of the dollars in commercial use in such colony or possession. The notes so issued are redeemable at par only at any of said offices or agencies, but if the bank cease to have any office or agency in any British colony or possession, the notes issued in such colony or possession shall be redeemable at par (or \$4.86½ of 1 pound sterling notes; and if \$5 notes, they are redeemable at the rate established by the governor in council) in the same manner as notes of the bank issued in Canada are payable and redeemable. The governor in council is by the amendment directed to fix the rate in Canadian currency at which such notes shall be circulated, as forming part of the total amount of notes in circulation.

**Annual Statement, Inspection, Returns.**—Directors are required to submit at every annual meeting of shareholders a clear and full statement of the affairs of the bank. They shall also submit to the shareholders such further statement of the bank's affairs (other than statements of the account of any person dealing with the bank) as the shareholders may require, by by-law passed at an annual general meeting or by any special meeting of the shareholders called for the purpose. The books, correspondence, and funds of the banks shall at all times be subject to the inspection of the directors. A person who is not a director is not allowed to inspect the account of any person dealing with the bank. Monthly returns (within the first 15 days of each month) of the liabilities and assets are required to be made to the minister of finance and receiver general. The penalty of failure to make such return is \$50 for each day after the expiration of such time during which the bank neglects to make it.

**Insolvency.**—Any suspension by the bank of payment of any of its liabilities as they accrue, which continues for 90 days consecutively, or at intervals within 12 consecutive months, constitutes insolvency, and causes a forfeiture of the bank's charter so far as regards further banking operations. If the property and assets be insufficient to pay the debts and liabilities, each shareholder becomes liable for the deficiency to an amount equal to the par value of the shares held by him, in addition to any amount not paid on said shares. The liability of the bank under any law, custom, or agreement to repay moneys deposited and interest (if any), and to pay dividends declared and payable on its capital stock, continues notwithstanding any statute of limitations, or enactment, or law relating to prescription. In case of the continuance of suspension of payment in full of any liabilities of the bank for 3 months after the expiration of the time which would constitute the bank insolvent, in the absence of proceedings under any statutes for the winding up of the bank, the directors shall make

calls on the shareholders to the amount they deem necessary to pay all debts and liabilities of the bank, without waiting for the collection of debts due on the sale of assets or property. Refusal to make a call, or to enforce it, renders every director who refuses guilty of a misdemeanor and liable to imprisonment for 2 years, besides imposing responsibility for damages suffered by the default.



## CHATTEL MORTGAGES

**Alabama.**—The mortgage must be recorded in the county in which the mortgagor resides and also in the county where the property is located. If before the lien is satisfied the property be removed to another county, the mortgage must be again recorded within 6 months from such removal in the county to which it is removed. Whenever any chattels are subject to a mortgage at the time of their removal to this state, the writing evidencing the lien or the mortgage must be recorded in the county into which they are brought and remain, within 6 months of the arrival of such property. There is a penalty for the removal or sale of mortgaged chattels.

**Arizona.**— Chattel mortgages may be given on all personal property except goods and merchandise daily exposed to sale in parcels, in the regular course of business of such merchandise, and contemplating a continuance of possession of such goods. The original or a certified copy of the mortgage may be filed with the recorder, and parties to it must attach an affidavit that it is *bona fide* and made without any design to delay or defraud creditors. The recording of the mortgage must be in the county where the mortgagor resides and also in the county where the property is located. The mortgagor may retain possession of the property, but if he remove it without the consent of the mortgagee, the latter is entitled to take possession or have it sold for the payment of the debt whether the same is due or not. If the property be removed, the mortgagee has 1 month's time to file a copy in the recorder's office of the county to which the property is taken.

**Alaska.**—Any interest in personal property that is capable of being transferred may be mortgaged. Every mortgage of personal property must be acknowledged by the mortgagor or person executing the same, in the same manner as conveyances of real property, before an officer authorized by law to take acknowledgments of deeds. The mortgage must be filed in the office of the recorder of the precinct where the property is at the time of the execution of the mortgage.

**Arkansas.**—The mortgage is to be filed only, not necessarily recorded. A mortgage indorsed "This instrument is to be filed but not recorded," by the mortgagee, and filed with recorder, shall create a lien upon the property therein described. But it is good only for 1 year, unless within 30 days next preceding the expiration of 1 year from such filing the mortgagee shall file an affidavit stating his interest and the amount still due. The penalty for removal or sale

of mortgaged chattels with intent to defraud is imprisonment for not less than 1 year nor more than 2 years. The mortgage is foreclosed by a complaint in the nature of a proceeding in equity.

**California.**—Mortgages may be made upon the following personal property, and none other: Locomotives, engines, and other rolling stock of a railroad; steamboat machinery; machinery used by machinists, foundrymen, and mechanics; steam engines and boilers; mining machinery; printing presses and material; professional libraries; instruments of surveyors, physicians, and dentists; upholstery, furniture, and household goods; oil paintings, pictures, and works of art; all growing crops, including grapes and fruit; vessels of more than 5 tons burden; instruments, negatives, furniture, and fixtures of a photograph gallery; machinery, casks, pipes, tubes, and utensils used in the manufacture of wine, fruit brandy, fruit syrups, or sugar; wines, fruit brandy, fruit syrups, or sugar, with the cooperage in which the same are contained; pianos and organs, iron and steel safes, meat cattle, horses, mules, swine, sheep, and goats, and the increase thereof; harvesters, threshing outfits, hay presses, wagons, and farming implements; the equipments of a livery stable, including buggies, carriages, harness, and robes; abstract systems, books, maps, papers, and slips or searches of records; raisins and dried fruits cured, or in the process of being cured; also, all boxes, fruit graders, drying trays, and fruit ladders. The mortgage must be recorded in the county in which the mortgagor resides and also in that in which the property is located. If the mortgaged property be removed into another county, the mortgage must be recorded therein within 30 days. When the mortgaged chattels are removed or sold with intent to defraud, the mortgagee may take possession and dispose of the property as a pledge for the payment of the debt, though the debt be not due. The mortgagor is also held guilty of a misdemeanor. The property, after demand of performance and notice to the mortgagor, may be sold by the mortgagee at public sale, like a pledge, or there may be a foreclosure by proceedings under the code of civil procedure.

**Colorado.**—Chattel mortgages are in general use. The lien of such a mortgage is good for a term not exceeding 2 years if the debt do not exceed \$2,500, and not exceeding 5 years if the debt be more than \$2,500 and less than \$20,000, and not exceeding 10 years if the debt exceed \$20,000. If the debt exceed \$2,500, there must be recorded annually a sworn statement of the mortgagee that the said mortgage was given in good faith, and that said sum is still unpaid, or, if a portion thereof shall have been paid, then how much thereof, if any, remains unpaid. The penalty for fraudulent removal or sale of chattels mortgaged is that the mortgagor is deemed guilty of larceny. Within a reasonable time after default, the mortgagee must take possession of the goods, or the mortgage is regarded as fraudulent



*per se.* The mortgage need be recorded only in the county where the property is located.

**Connecticut.**—Only a few specified kinds of property can be mortgaged without giving the mortgagee actual possession of the property, as follows: Machinery and the like, situated in and used in a manufacturing establishment; the implements, presses, types, plates, and the like, of any printing establishment; brick in kiln or brickyard; household furniture used by the owner in housekeeping; the fixtures and furniture of any hotel; hay; tobacco in the leaf; piano, organ, or melodeon, or any musical instrument used by an orchestra or band. The mortgage must be recorded in the county where the property is situated, in the same manner as deeds of land. The penalty for fraudulent removal or concealment is a fine of not more than \$500, or imprisonment for not more than 6 months. The penalty for selling or conveying is a fine of not more than \$100, or imprisonment for not more than 6 months. When personal property is mortgaged together with real estate, the mortgage may be foreclosed as if wholly real estate; but, when otherwise, the mortgagee upon default may bring a complaint claiming the sale of the property, which the court may thereupon order. A full statement of all the essential particulars of the debt secured is required. Not more than 25 per cent. per annum interest can be charged, and if more than 10 per cent. be paid, the excess shall be deducted from the principal.

**Delaware.**—The mortgage must be recorded in the county where the property is located, within 10 days from acknowledgment, and will then be a lien for 3 years. The penalty for removal from the county is a fine in a sum equal to the value of the property removed, and imprisonment for a term not exceeding 1 year. If default be made for 60 days, the mortgagee may proceed to collect in the same manner as in the case of mortgages of real estate.

**District of Columbia.**—Chattel mortgages, deeds of trust, and bills of sale of personal property, whereof the mortgagor, donor, or vendor shall remain in possession, must be recorded within 10 days from the date of acknowledgment thereof; otherwise, they will be inoperative as to third persons not having notice.

**Florida.**—The mortgage must be recorded in the county where the property is located within 90 days from its execution, or possession of property delivered to mortgagee within 60 days. The penalty for removal or concealment is a fine not exceeding double the value of the property, or imprisonment not exceeding 1 year. The penalty for sale or conveyance is a fine not exceeding \$100, and imprisonment not exceeding 1 year. Foreclosure may be had by petition in the circuit court of the county in which the property is situated. There can be no sale under a power in the mortgage.



**Georgia.**—The mortgage must be executed in the presence of, and be attested by or approved before, a notary public, justice of the peace, or judge of any court in the state, or clerk of the superior court. It may cover a stock of goods or other things in bulk, but changing in specifics. Recording must be in the county where the mortgagor resides and also where the property is located, within 30 days from the date. If a mortgage be executed on personalty not at the time within the limits of the state, it must be recorded within 6 months after such property is brought within the state. The penalty for fraudulent removal or concealment is a fine in double the sum of the debt; if the fine be not paid, imprisonment for not more than 12 months.

**Idaho.**—The mortgage must be recorded only in the county where the property is located. If the property be moved to another county, the mortgage must be recorded there within 10 days. The penalty for fraudulent removal or concealment of the chattels mortgaged is that the mortgagor is deemed guilty of larceny.

**Illinois.**—Every conveyance of personal property creating a lien on such property is a chattel mortgage. Both the husband and the wife must join in a mortgage of the household goods. The justice of the peace before whom the acknowledgment is taken must enter a memorandum thereof in his docket. The lien of the mortgage is good until the maturity of the whole debt or obligation, or extension thereof, provided such time shall not exceed 3 years from the filing of the mortgage, unless within 30 days next preceding the expiration of such 3 years, or if the said obligation mature within such 3 years, then within 30 days next preceding the maturity of said obligation, there be filed with the recorder and the justice of the peace, or his successor, an affidavit of the parties setting forth the interest of the mortgagee, and the amount still due; and then the time may thus be extended 3 years. For sale, or conveyance, the mortgagor shall forfeit to the purchaser twice the value of the property. For removal or concealment, the penalty is a fine not exceeding twice the value of the property, or imprisonment not exceeding 1 year. The mortgagee must take possession within a reasonable time after default, not later than the following day if he reside in the county. No mortgage of household goods, wearing apparel, or mechanic's tools of any person shall be foreclosed except in a court of record. The mortgage must be recorded in the recorder's office in the county in which the mortgagor resides at the time of its execution and at the time of the recording of the instrument. In case the mortgagor be a non-resident, the mortgage must be recorded in the county where the property is situated.

**Indian Territory.**—Chattel mortgages may be recorded or filed at the option of the mortgagee. If a mortgage is to be filed only, there is usually indorsed on it: "This instrument to be filed, but not

recorded." When filed, an affidavit showing what interest the mortgagee has in the property, and the amount due, must be filed 30 days prior to the expiration of 1 year, or the mortgage becomes void as to subsequent purchasers after the expiration of that year, and to creditors of the mortgagor. The mortgagor may retain possession until the mortgage debt is due, if so stipulated, but not with the power of disposition. Records are kept for the western district at Muscogee, for the central district at South McAlester, for the southern district at Ardmore, and for the northern district at Vinita.

**Indiana.**—The form generally used is that of a conditional bill of sale. The penalty for fraudulent disposition of the chattels mortgaged is a fine of not more than \$300, to which may be added imprisonment not exceeding 6 months. As to household goods, every sale must be under a judicial proceeding; there can be no sale under a power in the mortgage. The mortgage must be recorded in the county where the mortgagor resides, within 10 days after execution thereof, and, if not so recorded, it is absolutely void against all persons except the parties thereto, unless possession of the mortgaged property be delivered to the mortgagee. The mortgagee of household goods is not entitled to the possession of the goods unless the mortgage so provides. A mortgage on a stock of goods is valid, notwithstanding the mortgagor continues to sell the same from day to day, provided that the proceeds of the sales are applied in reduction of the mortgage debt, pursuant to agreement contained in the mortgage.

**Iowa.**—No sale or mortgage of personal property, where the vendor or mortgagor retains actual possession thereof, is valid against existing creditors or subsequent purchasers, without notice, unless a written instrument conveying the same is executed, acknowledged like conveyances of real estate, and filed for record with the recorder of the county where the holder of the property resides. Any encumbrance of personal property which may be held exempt from execution by the head of a family, if a resident of this state, must be signed by both husband and wife. The mortgage of personal property to secure the payment of money only, and in which the time of payment is fixed, may be foreclosed by notice and sale, unless a stipulation to the contrary has been agreed upon by the parties, or may be foreclosed by action in the proper court. The notice must contain a full description of the property mortgaged, together with the time, place, and terms of sale, and must be served on the mortgagor and upon all purchasers from him subsequent to the execution of the mortgage, and also upon all persons having recorded liens upon the same property which are junior to the mortgage. After notice has been served upon the parties, it must be published in the same manner and for the same length of time as is required in the case of the sale of like property on execution, and the sale shall be conducted in the same manner. The sheriff



conducting the sale shall execute to the purchaser a bill of sale, which shall be effectual to carry the whole title on which the mortgage operated. Chattel mortgages need no renewals, and are good until barred by the statute of limitation (10 years). In the absence of stipulations to the contrary, the mortgagee of personal property is entitled to the possession thereof. The plaintiff cannot sue on the note and the mortgage given to secure it at the same time in the same county. At any time prior to the sale, the holder of a junior encumbrance will be entitled to an assignment of the mortgagee's interest by paying him the amount secured, with interest and costs, together with the amount of any other liens of the same holder which are paramount to his. Whenever the amount due on any mortgage is paid off, the mortgagee, or those legally acting for him, must acknowledge satisfaction thereof in the margin of the record of the mortgage, or by execution of an instrument in writing referring to the mortgage, and duly acknowledged and recorded. If he fail to do so within 60 days after being requested, he shall forfeit to the mortgagor the sum of \$25. Upon written demand of a creditor, his agent or attorney, or of a mortgagor of personal property other than exempt property, the person entitled to receive said debt shall deliver to said creditor a statement in writing under oath, which statement shall show the nature and amount of the original debt secured by the mortgage, the date and amount of each payment, if any, that has been made thereon, and an itemized statement of the amount then due and unpaid; and the refusal to do so shall be considered a misdemeanor.

**Kansas.**—Chattel mortgages that are not accompanied by immediate delivery and followed by actual and continued change of possession of the things mortgaged are absolutely void as against the creditors of the mortgagor, and subsequent purchasers and mortgagees in good faith, unless the mortgage, or a true copy thereof, is forthwith deposited in the office of the register of deeds of the county where the property is then situated; or, if mortgagor be a resident of this state, then of the county of his residence. Such mortgage is valid as to third parties acquiring interests in good faith, for only 1 year from the day of filing, and must be renewed at the expiration of each year by affidavit of mortgagee, his agent or attorney, showing his interest in the property and the amount yet due. In the absence of stipulations to the contrary, the mortgagee has legal title to and right of possession of the property. After the condition is broken, the property may be taken and sold, 10 days' notice by handbills having been first given. This condition may be waived by the mortgagor.

**Kentucky.**—Chattel mortgages must be executed and acknowledged as deeds, and, to be valid as against creditors and purchasers for value, must be recorded in the county where the property is located. It is a penal offense, punishable by fine and imprisonment,



for any person to sell any personal property on which there is any mortgage of record, with the intent to prevent the foreclosure of the mortgage and the sale of the property.

**Louisiana.**— Chattel mortgages are unknown to the civil law. Movables may be pledged, but such pledges must be accompanied by delivery.

**Maine.**— The mortgage must be recorded in the office of the clerk of the city or town where the mortgagor resides, unless the mortgaged property is delivered to and retained by the mortgagee. The penalty for fraudulent disposition of the chattels mortgaged is a fine of not over \$1,000, or imprisonment for not more than 1 year. After condition broken, the mortgagor has 60 days to redeem before foreclosure.

**Maryland.**— The mortgage must be recorded within 20 days from the date. The penalty for fraudulent disposition of the chattels mortgaged is a fine of not more than \$500, or imprisonment for not more than 6 months, or both. In all mortgages there may be inserted a clause authorizing the mortgagee or other person to sell the mortgaged property upon default. There must be 20 days' notice by advertisement given of such sale.

**Massachusetts.**— Mortgages are to be recorded within 15 days after date in the records of the city or town where the mortgagor resides when the mortgage is made, and in the records of the city or town in which he then principally transacts his business or follows his trade or calling. When record is required in two different places, and the mortgage is recorded in one within 15 days, it may be recorded in the other within 10 days of the first record. If the mortgagor resides out of the state, the mortgage must be recorded in the place where the property is. The penalty for removal or concealment is a fine of not more than \$1,000, or imprisonment for not more than 1 year. The penalty for sale or conveyance is a fine of not more than \$100, or imprisonment for not more than 1 year. The form of mortgage in common use has a power-of-sale clause therein, whereby on short notice the mortgaged property may be sold. Without such power of sale, foreclosure requires at least 60 days.

**Michigan.**— No mortgage of property exempt, save tools, implements, materials, and other things used by the debtor to carry on his trade or profession, is valid, unless it be signed by the wife of the mortgagor. There is no transfer of legal title until after foreclosure. No mortgage of the library of a corporation formed for literary or scientific purposes is valid. The mortgage, or a true copy thereof, must be filed in the office of the township or city clerk of the town or city where the mortgagor resides, but need not be recorded in full. It shall be valid for 1 year only, unless within 30 days next preceding

the expiration of such year and yearly thereafter, the mortgagee shall make and file an affidavit setting forth his interest in the property. The penalty for fraudulent disposition of the chattels mortgaged, if the property be valued at \$25 or over, is a fine of \$250, or imprisonment for not more than 6 months; if the property be worth less than \$25 a fine of not more than \$100, or imprisonment for not more than 3 months. The mortgagee may proceed to foreclose by his own act, and sell the property after due notice.

**Minnesota.**—The title to the property is in the mortgagor until foreclosure. The mortgage must be filed in the town, city, or village where the property is, and a copy thereof filed in the town, city, or village where the mortgagor resides, but need not be recorded in full. It is valid as against creditors and subsequent purchasers for 6 years only from the time it was filed, unless the whole indebtedness does not mature within 6 years, in which event the lien shall continue for 2 years after maturity. The penalty for fraudulent disposition of the chattels mortgaged is a fine of not less than twice the value of the property, or imprisonment for 1 year, or both. Under the power in the mortgage, the chattels may be sold by the mortgagee at public sale after 10 days' notice.

**Mississippi.**—Chattel mortgages, and deeds of trust in the nature of mortgages conveying personal property as security for debt, may be executed; the latter are commonly in use. Possession need not be delivered. There is no distinction between these and real-estate mortgages or deeds of trust; they must be acknowledged and recorded as real-estate mortgages and deeds to give priority of right as to subsequent *bona-fide* purchasers and creditors having liens. Where chattels are removed from the county, the mortgage or deed of trust must be recorded in the county to which removed, within 12 months, to get the benefit of legal notice by record. Chattel mortgages and deeds of trust on growing crops and other property for future advances are allowed and are in common use.

**Missouri.**—Chattel mortgages and deeds of trust upon personal property, in order to be valid against third persons, must be accompanied with delivery of the chattels to the mortgagee, or *cestui qui trust* (the beneficiary), or the instrument must be filed or recorded in the county in which the mortgagor resides, or, where the mortgagor is a non-resident of the state, in the recorder's office of the county where the mortgaged property was situated at the time of executing the mortgage. Chattel mortgages conveying stock in trade, of which the mortgagor retains possession and with which he deals in the same manner as before the execution of the mortgage, are invalid as to purchasers for value, and are fraudulent and void as to creditors whose attachment or levy is made before the mortgagee actually takes



possession under the mortgage. When interest of more than 1 per cent. per month on the amount actually loaned is charged on chattel mortgages, or the note secured by the mortgage expresses a sum in excess of the actual amount loaned, the debt as well as the mortgage is void and non-enforceable, and any person selling or transferring any such evidence of debt which expresses on its face a sum due or payable in excess of the sum actually loaned, or who shall transfer any mortgage without stating to the vendee the true amount actually loaned, shall be liable to the purchaser for double the amount named in any such evidence of debt, and in addition shall be deemed guilty of a misdemeanor punishable by a fine not exceeding \$500, or imprisonment not to exceed 6 months, or by both.

**Montana.**—A chattel mortgage is void as against the rights of any other persons than the parties thereto, unless the possession of the mortgaged property be delivered to and retained by the mortgagee, or the mortgage provide that the property may remain in possession of the mortgagor, and be accompanied by an affidavit of all the parties thereto (or, in case any party is absent, the affidavit of those present, and of the agent or attorney of such absent party) that the same is made in good faith to secure the amount named therein, and without any design to delay or hinder the creditors of the mortgagor. The execution of the mortgage must be acknowledged by the mortgagor before an officer authorized to take acknowledgments. The mortgage so executed, or a certified copy thereof, must be filed in the office of the clerk and recorder of the county where the mortgagor resides, but if he be not a resident of the state, then the recording must be in the office of the clerk or recorder of the county where the property is situated. After execution and filing, the mortgage shall be valid against all parties until the maturity of the debt and 60 days thereafter, not exceeding 1 year and 60 days. A mortgage, however, may be renewed within 60 days after the maturity of the debt by filing an affidavit showing the date of the mortgage, the names of the mortgagor and mortgagee, the date of filing the same, and the amount of the debt justly owing at the time of the filing of such affidavit, and that said mortgage is not made or renewed to hinder, delay, or defraud creditors or subsequent encumbrancers. Such affidavit continues the mortgage in force for a period of 1 year. A like affidavit may be filed within 60 days after the expiration of each year until the debt is fully paid. A chattel mortgage may be foreclosed by the sheriff of the county or by an action in the district court. These provisions apply to all bills of sale, deeds of trust, or other conveyances of personal property which have the effect of a mortgage or lien upon property, except conditional sales.

**Nebraska.**—Chattel mortgages need not be acknowledged, except those covering household goods, but must be filed for record



in the office of the county clerk of the county where the mortgagor resides, unless he be a non-resident of the state, in which case it must be in the county where the property is situated. Every such mortgage shall cease to be valid as against the creditors of the persons making the same, or subsequent purchasers or mortgagees in good faith, after the expiration of 5 years from the date of filing the same or a copy thereof. Every chattel mortgage, which is not filed for record, or under which immediate possession is not taken, is presumptively fraudulent. If a chattel mortgage be not filed for record, actual notice is effective as against a subsequent purchaser or mortgagee, but an unrecorded chattel mortgage is absolutely void as against creditors of the mortgagor who levy an attachment or execution upon the property, even though such creditors are aware of the existence of the mortgage. If the mortgage be filed for record in the county where the mortgagor resides, it is notice in whatever county the mortgagor may remove the property. Foreclosure and sale under a chattel mortgage is regulated by statute, and the provisions must be complied with by the mortgagee unless waived. If the sale be conducted in accordance with the statute, the mortgagee may purchase the property. Sale of the mortgaged property or removal out of the county by the mortgagor, without consent of the mortgagee, and with intent to defraud him, are each made penitentiary offenses.

**Nevada.**—Unless the possession of the chattels be delivered to the mortgagee, no chattel mortgage is valid as against creditors and purchasers for value except the same be in writing, acknowledged, sworn to by or on behalf of the mortgagor or mortgagee, and recorded in the office of the recorder of the county where the property is located. No chattel mortgage for record is authorized for less than \$100.

**New Hampshire.**—No mortgagor shall execute a second or subsequent mortgage, without setting forth in the mortgage the existence of all previous mortgages. The mortgage should be recorded in the office of the clerk of the town where the mortgagor resides. The penalty for fraudulent sale or pledge is a fine in double the value of the property; for removal or concealment, a fine not exceeding \$1,000 or imprisonment not exceeding 1 year. The mortgagee at any time, 30 days after default, may sell the goods at auction, after 4 days' public notice. To render a mortgage valid against third parties, both parties to the instrument must subscribe on oath, to be recorded, that the mortgage is made to secure the debt specified and for no other purpose, and that the said debt was not created to enable the mortgagor to execute the mortgage; but that is a just debt honestly due and owing from the mortgagor to the mortgagee.

**New Jersey.**—The mortgage must be executed as a mortgage of real estate, and recorded in like manner. If given on household

goods, husband and wife must join. The penalty for fraudulent disposition of the chattels mortgaged is a fine of not more than \$1,000, or imprisonment for not more than 6 months, or both. The mortgagee may foreclose by seizing, advertising, and selling the chattels, or by filing a bill in chancery.

**New Mexico.**—Any personal property except growing crops may be mortgaged; in the absence of stipulation to the contrary, the mortgagor is entitled to possession of the goods. A mortgage is good for 1 year only, unless annually renewed by affidavit of the mortgagee. The penalty for fraudulent disposition of the chattels mortgaged is that the mortgagor is deemed guilty of a misdemeanor. On default, the mortgagee, on giving 10 days' public notice, may sell the goods. A mortgage must be recorded as required for deeds of real estate.

**New York.**—Every chattel mortgage, or a true copy thereof, must be filed within the office of the clerk of the town or city where the mortgagor resides, unless the execution thereof is accompanied by immediate delivery of the mortgaged chattels to the mortgagee. If the mortgagor be a non-resident, the mortgage must be filed in the office of the clerk of the town or city where the mortgage chattels are situated. In the county seats, the filing must be in the county clerk's office; in the city of New York, the filing must be in the register's office. The mortgage need not be recorded in full. Every such mortgage is valid for 1 year, and must be renewed every year by filing a statement within 30 days next preceding the expiration of the year showing the names of the parties, the time when and place where the original mortgage was filed, and the interest of the mortgagee in the property thereby claimed by him; otherwise the mortgage is void as to creditors and purchasers. Fraudulent disposition of the mortgaged chattels will be punished by a fine or imprisonment, or both. In case of default, the mortgagee may sell the property at public sale without suit, although the mortgage contain no power of sale. Such a power is usually inserted.

**North Carolina.**—Chattel mortgages are valid against third parties only when registered in the county where the mortgagor resides, in case the mortgagor does not reside in the county where the chattels are situated, but, if the chattels consist of choses in action, the mortgage must be recorded in the county where the mortgagee resides. If household or kitchen furniture be mortgaged, the wife of the mortgagor must join in the execution of the mortgage and be privately examined as in cases of conveyances of real estate. It is a misdemeanor to dispose of mortgaged chattels with the intent to defeat the mortgagor's rights. Foreclosure is by suit in court or by sale, if the mortgage contain a power of sale.



**North Dakota.**—The mortgage must be signed by two attesting witnesses. No other acknowledgment is necessary. It must be filed only, and not necessarily recorded in full. A mortgage upon growing crops, or crops to be sown, grown, or raised, is not valid for a period longer than 1 year. The mortgage is valid for 3 years only, unless renewed within 90 days preceding the expiration of such 3 years, by filing a copy thereof, with a statement of the mortgagee's interest, in the office of the register of deeds in the county in which the mortgagor then resides. It is then continued for 3 years further. The mortgagor is deemed guilty of a felony for the fraudulent disposition of the goods mortgaged. The provisions as to notice, time, place, and details of sale are minute.

**Ohio.**—Mortgages upon personal property left in the hands of the mortgagor for sale are void unless the mortgagee take immediate possession, or unless the mortgage provide that all proceeds of sales shall be paid to the mortgagee. The mortgage is valid for 1 year only unless renewed by filing a true copy thereof with a statement of the mortgagee's interest, within 30 days next preceding the expiration of the year, and annually thereafter. The penalty for a fraudulent disposition of the chattels mortgaged is a fine of not more than \$500, or imprisonment for not more than 3 months, or both. It must be filed only, but need not be recorded in full.

**Oklahoma.**—Two attesting witnesses must sign; no acknowledgment is necessary. The mortgage is valid for 3 years only, unless renewed. The mortgagor is deemed guilty of a felony for fraudulent disposition of the things mortgaged. Upon default, the mortgagee may sell the property upon giving 10 days' public notice. The mortgage must be filed in the office of the register of deeds in the county where the property is situated.

**Oregon.**—Chattel mortgages must be recorded in the county where the property is situated, otherwise they are void as against existing or subsequent creditors of the mortgagor. It is a criminal offense to execute a mortgage on chattels not owned by the mortgagor, or to dispose of mortgaged chattels without the consent of the holder of the mortgage. A mortgagor may recover mortgaged chattels anywhere in the state, even if they have been sold by the mortgagor to an innocent party, or compel the latter to recognize his lien. A mortgage of a stock of goods is invalid if the mortgagor retain possession. If it appear from the mortgage that the mortgagor has been given unlimited power of sale, the mortgage is void as to third persons. Foreclosure is by suit in equity, or by any process agreed upon in the mortgage.

**Pennsylvania.**—Chattel mortgages are rarely used. Leasehold interest of collieries, mining land, and the like, may be mortgaged in a



manner similar to real estate. Chattel mortgages are authorized upon iron ore, pig iron, blooms, and rolled or hammered iron in sheets, bars, or plates; iron or steel nails, steel ingots and billets, rolled and hammered steel in sheets, bars, or plates; all boilers, engines, oil, gas, and artesian well supplies, and all steel or iron castings of every description, not in place; all petroleum or coal oil, crude or refined, in tanks, barrels, reservoirs, or other receptacles, in bulk; all roofing slate, slate quarried, to be used for roofing or manufactured for other use; asphaltum blocks, including all materials used in the manufacture thereof; all manufactured cement in barrels, bags, or bins, and material on hand used in the manufacture thereof. The mortgage must be recorded in the county where the property is situated, and is then valid until 3 months after maturity, but within the 3 months may be renewed for 1 year from the maturity. If the mortgagor sell the property without informing the purchaser of the mortgage, he is liable to a fine of not less than \$100 nor more than the entire value of the property, or imprisonment for not less than 30 days nor more than 1 year, or both. The mortgagee, upon default, having given 30 days' notice to the mortgagor, and 10 days' public notice, may sell the chattels at public auction.

**Rhode Island.**—The mortgagor has 60 days after default to redeem. Foreclosure may be according to the terms in the mortgage, or by bill in equity. The mortgage must be recorded or the property delivered to, and retained by, the mortgagee within 5 days from the date of signing thereof.

**South Carolina.**—Chattel mortgages are in general use. Execution must be in the presence of one witness. The mortgage must be recorded within 40 days from execution. For fraudulent disposition of the chattels mortgaged, the mortgagor is guilty of a misdemeanor. Foreclosure is by seizure and sale after 15 days' advertisement.

**South Dakota.**—The mortgage must be in writing, signed by the mortgagor in the presence of two persons, who must attest it as witnesses. The original or an authenticated copy must be filed in the office of the register of deeds of the county where the mortgaged property, or any part thereof, is situated at the time, else it will be void as against creditors of the mortgagor, and subsequent purchasers and encumbrancers in good faith. It ceases to be valid against creditors and purchasers in good faith after 3 years from the date of filing, unless within 30 days next preceding such expiration a copy and a statement of the debt claimed by the mortgagee or his assignee, sworn to and subscribed by him, his agent or attorney, be filed in the office of the register of deeds in the county where the mortgagor resides; and it must be renewed every 3 years. Mortgage of a stock of goods in possession, and the right of disposal remaining in the

mortgagor, is void unless the proceeds of the goods are required by the mortgage to be applied at once upon the mortgaged debt. Mortgaged personal property may be seized under attachment or execution issued at the suit of a creditor of the mortgagor. Before the property is so taken the officer must pay or tender the mortgagee the amount of the mortgage debt and interest, or must deposit the amount thereof with the county treasurer, payable to the order of the mortgagee. Mortgages of personal property may be foreclosed, either by action in court or by sale, upon notice by posting or publication for 10 days, at public auction. When a chattel mortgage has been satisfied, a release and satisfaction of it must within 30 days thereafter be filed in the office of the register of deeds in the county in which the mortgage is filed.

**Tennessee.**—Chattel mortgages may be made on personal property which is not consumable in the use. A mortgage upon a stock of goods from which sales are being made is void. For fraudulent disposition of the chattels mortgaged, the mortgagor is deemed guilty of a felony. The mortgagee usually sells under the power in the mortgage. The mortgage must be registered.

**Texas.**—If the original be deposited for filing, no acknowledgment is necessary; otherwise, in case of a copy. A mortgage on a stock of goods from which sales are being made is void. The penalty for fraudulent disposition of the goods mortgaged is imprisonment in the penitentiary for not less than 2, nor more than 5, years. Justices of the peace have jurisdiction to foreclose when the amount is \$200 or less, exclusive of interest. The mortgage must be filed in the office of the clerk of the county where the property is situated; or, if the mortgagor be a resident of the state, then of the county of which he is a resident.

**Utah.**—No mortgage of personal property exempt from execution is valid unless executed by both husband and wife. The mortgage must be filed, but need not be recorded. It is void after 1 year from filing, unless renewed within 30 days from the expiration of such year, but no mortgage is good longer than 5 years from the original filing. The mortgagor is punishable by fine or imprisonment, or both, in case of fraudulent disposition of the chattels mortgaged.

**Vermont.**—No mortgagor shall execute a second or subsequent mortgage without setting forth in the mortgage the existence of all previous mortgages. The mortgagor may be fined in double the value of the property, where there is a fraudulent disposition of the chattels mortgaged. Thirty days after default, upon 10 days' notice, the mortgagee may sell the chattels at public auction. This is the only method of foreclosure. Every chattel mortgage must be recorded in the office of the clerk of the city or town where the mortgagor resides at the time of making the mortgage.

**Virginia.**—Deeds of trust are more generally used than chattel mortgages. They must be recorded. If the goods be removed to another county, the mortgage must be there recorded within 1 year.

**Washington.**—Chattel mortgages may be made upon all kinds of personal property, rolling stock of a railroad company, all kinds of machinery, upon boats and vessels, portable mills, and such like property, also upon growing crops. Such mortgages must be accompanied by the affidavit of the mortgagor that it is made in good faith, and without design to hinder, delay, or defraud creditors, and must also be acknowledged in the same manner as is required by law in conveyances of real property; they must be filed in the office of the county auditor within 10 days of the time of execution. Where a property mortgaged exists in two or more counties, a copy of the mortgage may be filed in each county with like force and effect as the original mortgage provided, that a mortgage on any vessel or boat, or part of a vessel or boat, over 20 tons burden, shall be recorded in the custom house where such vessel is registered, enrolled, or licensed, and need not be recorded elsewhere. When personal property mortgaged is removed from the county in which it is situated, it is, except as between the parties to the mortgage, exempted from the operation of the mortgage, unless either: 1. The mortgagee within 30 days after such removal causes the mortgage to be recorded in the county to which the property has been removed; 2. the mortgage be recorded in the custom house; 3. the mortgagee within 30 days after such removal takes possession of the property. A mortgagee of personal property, where the debt for which the mortgage has been given becomes due, or if not yet due, and the mortgagee has reasonable ground to believe his debt is insecure, and that he is in danger of losing his debt or security by allowing the property to remain in the hands of the mortgagor, may have it taken from his possession and sold by the sheriff to satisfy the debt in the manner provided by the statute; or the mortgagee may, at his option, foreclose his mortgage by proceedings in the superior court. If a person, having mortgaged personal property, removes it from the county where it was situated at the date of the mortgage before it is duly released, or without the consent in writing of the mortgagee, or sells or disposes of the same, or any interest therein, and parts with the possession thereof, or secretes the same, he is deemed guilty of a misdemeanor, and on conviction shall be punished by imprisonment for a term not exceeding 3 years.

**West Virginia.**—Deeds of trust are more generally used than chattel mortgages and are executed by trustees. They must be recorded, and are enforced only in a court of equity.

**Wisconsin.**—No particular form of chattel mortgages is prescribed by statute in this state. The wife must join in a mortgage of



household furniture and property exempt. Mortgages of stocks of goods retained by mortgagor, who makes sales and applies proceeds on mortgage debt, become invalid as to third parties, and due as between mortgagor and mortgagee, unless every 60 days the mortgagor file a verified statement of all sales, the amount to be applied on the debt, and all new stock added. The mortgage is valid for 2 years only, unless renewed for 2 years by filing an affidavit setting out the mortgagee's interest, within 30 days before the expiration of the said 2 years. The penalty for fraudulent disposition of the goods mortgaged is a fine of not more than \$100, or imprisonment not exceeding 6 months. The mortgage usually contains a power of sale. It, or a copy thereof, must be filed in the office of the clerk of the city or town where the mortgagor resides, or, if he be a non-resident, then where the chattels are kept.

**Wyoming.**—Chattel mortgages must be executed in the same manner as conveyances of real estate. Such a mortgage is valid until 60 days after maturity, and may be annually renewed, but must be filed with the county clerk. A mortgage containing a power of sale may be foreclosed by advertisement for 3 weeks. It is a felony for the mortgagor to sell or remove mortgaged chattels without the consent of the holder of the mortgage. The mortgagor may retain possession of the mortgaged chattels if the law be complied with as to execution and recording.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—The mortgage must be registered in the district within which the chattels are situated within 21 days, or, if east of the Cascade Mountains, within 30 days.

**Manitoba.**—A duplicate mortgage must be filed with the county clerk in the county court division where the chattels are situated within 5 days from execution, and renewed every 2 years by filing a statement of the amount due thereon.

**New Brunswick.**—Every mortgage or conveyance of chattels not completed by delivery and an actual change of possession must be filed within 30 days of execution, with affidavits of execution and of *bona fides*. This must be renewed each year if notice be given to the mortgagee; and, if default for 30 days after notice be made, the bill of sale is void as against subsequent purchasers.

**Nova Scotia.**—The mortgage must be filed in the registry of deeds for the county wherein it is made, accompanied by an affidavit from the grantor of the amount due, and of good faith.

**Ontario.**—Mortgages must be filed with the clerk of the county court of the county where the goods are situated, within 5 days from

execution, accompanied by an affidavit of execution, and of good faith. They must be renewed annually.

**Quebec.**—Chattel mortgages are not allowable in this province except in the case of a vessel in the course of construction; effects may, however, be pledged, by being placed in the hands of the creditor.

### CONDITIONAL SALES AND INSTALLMENT LEASES

When personal property is sold, or contracted to be sold, and the possession thereof is delivered to the vendee on the condition that the title is to remain in the vendor until the purchase price is paid, or some other condition is fulfilled, the general rule, except where the case is controlled by statutes providing otherwise, is that the transaction, in the absence of actual fraud, is valid as to all parties; as in Arkansas, California, Delaware, Florida, Indiana, Michigan, New Mexico, Oregon, Rhode Island, Tennessee, and Utah. In the larger number of the states and territories of the United States, however, in order that the transaction may be valid as to creditors, subsequent mortgagees or purchasers from the vendee or lessee in such a contract having possession of the chattels, certain formalities must be complied with, as that the contract must be in writing, acknowledged and recorded. In Arizona, Colorado, Georgia, Illinois, Iowa, Kansas, Kentucky, Maine, Missouri, North Carolina, Ohio, South Carolina, Texas, and Wisconsin, such a contract must be executed and recorded in the same manner as chattel mortgages. The provisions as to conditional sales and installment leases, in some jurisdictions, are stated in detail below:

**Alabama.**—If personal property be sold under contract whereby the vendor retains title until the purchase price is paid, the contract must be in writing, and recorded in the county where the purchaser resides, and also where the property is located; otherwise, it is void against subsequent purchasers for a valuable consideration and judgment creditors. This provision does not apply to Mobile, Etowah, Marion, and Calhoun counties.

**Connecticut.**—All contracts for the sale of personal property, except household furniture, musical instruments, bicycles, and such property as is by law exempt from attachment and execution, conditioned that the title thereto shall remain in the vendor, must be in writing, describing the property and all conditions of said sale, acknowledged before some competent authority, and recorded within a reasonable time in the town clerk's office in the town where the vendee resides; otherwise, they will be held to be absolute sales, except as between the vendor and the vendee, or their personal representatives, and will be liable to be taken by attachment for the debts of the vendee.



**Delaware.**—Instalment leases are generally little else than conditional sales of personal property, and there is no statute law in this state concerning such sales. Conditional sales of personal property are valid in this state; and when delivery of property is made upon agreement that no title shall pass until payment is made or some other thing is done or occurs, no title passes to the party to whom the property is delivered until such payment is made or some other thing is done or occurs; and he can pass none to his vendee, no matter how ignorant of the secret contract such vendee may be.

**District of Columbia.**—Conditional sales and other instruments, through which title or lien is retained or created in personal property, where the property has not been delivered, shall not be valid as against innocent purchasers for value without notice until recorded.

**Georgia.**—Personal property may be sold with a condition that the title remain in the vendor until the purchase price shall be paid in full, but in all such cases, in order for the transaction to be good as against third parties, it must be evidenced in writing, which must be executed and recorded in the same manner as is required in reference to mortgages on personal property. The reservation of title is good, as between the parties, whether reduced to writing and recorded or not, and the vendor is liable criminally for selling the property without the consent of the vendor, or for encumbering the same, and is subject to a fine in double the value of the property, one-half of which goes to the vendor in satisfaction of his debt.

**Illinois.**—Where personal property is sold and possession is given to the vendee, all conditions and secret liens are treated as fraudulent *per se*. The only manner in which a lien can be secured is by chattel mortgage executed in accordance with the provisions of the chattel mortgage laws. Conditional sales and agreements are good as between the parties, but, where delivery accompanies the sale, are void as to all creditors and *bona-fide* purchasers. The only exception is in the case of rolling stock of railroads, in which case the agreement must be acknowledged and recorded in every county through which the railroad, availing itself of the privilege, runs. Contracts in the form of leases of personal property for a stipulated rent, providing that when the lessee shall have paid a specified sum the property leased shall become his property, are held to be conditional sales with the right of rescission on the part of the vendor in case the purchaser fail in the payment of his instalments. Such contracts, though valid between the parties, are made with the risk on the part of the vendor of losing his lien in case the property should be levied upon by creditors of the purchaser while in the possession of the latter.

**Indiana.**—A contract whereby personal property is sold upon condition that the title shall not pass until the purchase money is paid

is valid, even as against a third person who has purchased the property in good faith without notice. But a manufacturer or wholesaler cannot lawfully retain title to goods sold by him to a retailer for the purpose of resale to the general public. Such a condition is fraudulent and void as against subsequent *bona-fide* purchasers and creditors.

**Iowa.**—No sale, contract, or lease wherein the transfer of title or ownership of personal property is made to depend upon any condition, shall be valid against any creditor or purchaser of the vendee, or lessee in actual possession, obtained in pursuance thereof, without notice, unless the same be in writing, executed by the vendor or lessor, acknowledged and recorded the same as chattel mortgages. But encumbrances on the property sold, given to secure the purchase price, need only be signed and acknowledged by the purchaser.

**Kansas.**—All instruments in writing or promissory notes evidencing the conditional sale of property, must be filed in the office of the register of deeds to be valid as against innocent purchasers, and when so filed are subject to the law applicable to chattel mortgages.

**Kentucky.**—Conditional sales made in good faith are recognized and enforced. Common-law rules govern; there is no statute prescribing governing rules. If they be in fact mortgages to secure previous indebtedness, they are so treated.

**Maine.**—The bill of sale, or note, must be recorded in all cases where personal property is delivered and the title reserved in the vendor until payment.

**Maryland.**—Any purchaser of personal property, under an unrecorded conditional written contract, who, without the consent in writing of his vendor or assignees, shall remove any of said property beyond the city or county where located at the time of said contract, with intent to defraud the vendor, or who, with such intent, removes, secretes, hypothecates, destroys, or sells same, is liable, on indictment and conviction, to imprisonment for not more than 6 months, or a fine of not more than \$500, or both, in the discretion of the court.

**Massachusetts.**—When a sale of personal property is made on condition that the title to the property sold shall not pass until the price is paid in full, and the vendor takes from the vendee possession of the property for failure to comply with such condition, the vendee shall have the right, at any time within 15 days after such taking, to redeem the property so taken by paying to the vendor the full amount of the price then unpaid, together with interest and all lawful charges and expenses due to the vendor. A contract for the sale of furniture or other household effects made on condition that the title shall not pass until the price is paid in full, whether under the form of lease or otherwise, shall be in writing and a copy furnished the vendee by the



vendor at the time of sale. All payments and charges, whether in the nature of interest or otherwise, as they accrue, shall be indorsed by the vendor or his agent upon such copy if the vendee request. If the vendee fail to comply with any provision thereof through negligence, his rights under the contract shall be suspended while such default continues. If he refuse or wilfully fail to comply, he shall be deemed to have waived the condition of sale, and when the vendor takes possession for non-compliance with the terms of the contract, he must furnish the vendee or other person in charge of the property an itemized statement of account showing the amount due, and make demand for the balance then due at least 30 days before taking possession, and the 15 days above stated shall not begin to run until such statement is furnished and demand made and the 30 days have expired, provided the vendee can be found with reasonable care and diligence. When 75 per cent. or more of the contract price has been paid, after the expiration of the said 15 days, the goods shall be sold by the vendor at public auction, when the vendee requests in writing, with due advertisement thereof, and the balance of the price for which they have been sold, after deducting the amount due the vendor and expenses of sale, shall be paid to the vendee.

**Michigan.**—The contract for the conditional sale of a chattel delivered to the vendee does not have to be filed or recorded; and a *bona-fide* purchaser from the vendee gets no title as against the absolute owner unless the condition has been waived. Nor do instalment leases have to be recorded. The fraudulent removal, concealment, disposal, or embezzlement of property covered by such latter contract is a felony.

**Minnesota.**—Every note or other evidence of indebtedness or contract, the conditions of which are that the title or ownership to the property for which said note or other evidence of indebtedness or contract is given remains in the vendor, is absolutely void as against creditors of the vendee and subsequent purchasers and mortgagees in good faith, unless the note or other evidence of indebtedness or contract, or if the contract be oral, then a memorandum thereof, be filed in the office of the clerk of the town, village, or city where the vendee resides at the time of making thereof. The filing of such note, evidence of indebtedness, or contract so filed ceases to be notice to creditors or subsequent purchasers or mortgagees 1 year after the date on which such note, evidence of indebtedness, or contract becomes due.

**Mississippi.**—Conditional sales of goods or chattels are void as to creditors or purchasers of one remaining in possession for 3 years, unless in writing, acknowledged, and recorded.

**Missouri.**—Where personal property is sold, to be paid for in whole or in part in instalments, or is hired or delivered on condition that the



same shall belong to the vendor until such sums shall have been paid, such condition in regard to the title so remaining until such payment is void as to all subsequent purchasers in good faith and creditors, unless such condition shall be evidenced in writing, executed, acknowledged, and recorded as in the case of chattel mortgages. Before the vendor or lesser of such personal property can take possession of the property, unless the transaction be evidenced by writing, acknowledged, and recorded as aforesaid, he is required to tender or refund to the purchaser or any party receiving the same, any sum of money paid after deducting therefrom a reasonable compensation for the use of such property, which shall in no case exceed 25 per cent. of the amount so paid, anything in the contract to the contrary notwithstanding, and whether such condition be expressed in such contract or not, unless the property have been broken or actually damaged, and then a reasonable compensation for such breakage or damage shall be allowed. Unless personal property on a sale be actually delivered in a reasonable time and be followed by an actual and continued change of possession of the things sold, such sale is fraudulent and void as against the creditors of the vendor or subsequent purchasers in good faith; and no sale of goods and chattels where possession is delivered to the vendee shall be subject to any condition whatever as against creditors of the vendee, or subsequent purchasers from such vendee in good faith, unless such condition be evidenced in writing, executed, and acknowledged by the vendee, and recorded as in the case of a chattel mortgage.

**Montana.**—All contracts, notes, and other instruments, whereby personal property is transferred, and whereby it is provided that the title shall remain in the vendor until the property is paid for, must, or a certified copy thereof, be filed in the office of the county clerk and recorder where the property is situated.

**Nebraska.**—Conditional sales are valid as between the parties and against judgment or attaching creditors and subsequent purchasers and mortgagees, with notice, either actual or constructive; otherwise, invalid. Constructive notice is obtained by filing with the county clerk of the county where the vendee resides a copy of the contract of sale, which copy must have attached thereto an affidavit of the vendor, his agent or attorney, setting forth the names of the vendor and vendee, a description of the property transferred, and the full and true interest of the vendor therein. Constructive notice ceases at the end of 5 years from the date of sale, unless within 30 days prior thereto a copy of the contract, verified as before, shall be again filed. The vendor may preserve the validity of the notice thereafter by an annual refiling.

**Nevada.**—There are no special statutes regarding such sales.

**New Hampshire.**—No lien reserved in personal property sold conditionally and passing into the hands of the conditional purchaser, except a lien upon household goods, created by a lease thereof, containing an option in favor of the lessee to purchase the same at a specified time, shall be valid against attaching creditors, or subsequent purchasers, without notice, unless the vendor of such property make a written memorandum, signed by the purchaser, witnessing the lien, the sum due thereon, and containing the following affidavit: "We severally swear that the foregoing memorandum is made for the purpose of witnessing the lien and the sum due thereon as specified in said memorandum and for no other purpose whatsoever, and that said lien and the sum due thereon were not created for the purpose of enabling the purchaser to execute said memorandum, but said lien is a just lien and the sum stated to be due thereon is honestly due thereon and owing from the purchaser to the vendor." The lien must be recorded: (1) Where purchaser resides, if in this state; (2) where vendor resides, if within this state and if purchaser do not reside in state; (3) where property is situated, if neither purchaser nor vendor reside in this state.

**New Jersey.**—Instruments attesting the conditional sale of chattels must be recorded to be valid as against subsequent purchasers and mortgagees. Where instalment leases are given on household goods, the husband and wife must join in the contracts.

**New Mexico.**—Goods and chattels may be sold, reserving by written contract the title in the vendor until the same has been fully paid for, and it is not necessary that such contract shall be filed or recorded in any public office.

**New York.**—Conditional sales accompanied by delivery are void as against creditors and *bona-fide* purchasers unless the contract for sale, or a copy, be filed; such filing must be in the town or city where the vendee lives, or if not a resident of the state, then in the town or city where the property is; in the counties of New York and Kings, the filing must be in the register's office; in other cities and towns where there is a county clerk's office, in that office, and in all other cities and towns in the office of the town clerk, unless there be a county clerk's office in the city or town. If the sale be of a railroad equipment, the contract must be duly acknowledged and recorded in the book of real-estate mortgages in the office of the county clerk or register of the county where the principal office or place of business of the vendee, lessee, or bailee is located, and each locomotive or car, so leased or loaned, must have the name of the vendor, lessor, bailor, or assignee of the vendor, plainly marked upon both its sides, followed by the words *owner*, *lessor*, *bailor*, or *assignee*, as the case may be. These provisions do not apply to conditional sales of household goods, law



books, law blanks, law-office supplies, pianos, organs, safes, scales, butchers' and meat-market tools and fixtures, wood-cutting machinery, engines, dynamos boilers, portable furnaces, boilers for heating purposes, threshing machines, horsepowers, mowing machines, reapers, harvesters, grain drills and their attachments, dairy sizes of centrifugal cream separators, coaches, hearses, carriages, buggies, phaetons and other vehicles, bicycles, tricycles and other devices for locomotion by human power; provided the contract be executed in duplicate and one duplicate be delivered to the purchaser. In case any articles sold conditionally but delivered be retaken by the vendor, they shall be held by him for 30 days, during which time the vendee may perform the condition; and on 15 days', written notice personally served upon the vendee, if within the county where the sale is to be held, and if not, then mailed to him at his last known place of residence, and stating the terms of the contract, the amount unpaid, the expenses of storage and the time and place of the sale, unless such amounts are sooner paid, the vendor may sell by public auction, rendering the surplus to the vendee.

**North Carolina.**—Contracts for conditional sales must be recorded in the county in which the purchaser resides; or if he reside out of the state, in the county in which the property or some part thereof is situated.

**North Dakota.**—Contracts for the conditional sale of chattels must be recorded to be valid as to third parties without notice.

**Ohio.**—Conditional sales of personal property are permitted, but are void as to all subsequent purchasers, mortgagee in good faith, and creditors, unless the condition be evidenced by writing signed by the purchaser, and also by a statement thereon, under oath, made by the vendor, his agent, or attorney, of the amount of the claim, or a true copy thereof, with an affidavit that the same is a true copy, deposited with the township clerk or county recorder in the same manner as chattel mortgages. The vendor of personal property, except machinery equipment and supplies for railroads and contractors, and for manufacturing brick, cement, and tiling, and for quarrying and mining purposes, cannot afterwards repossess himself of such property without tendering or refunding to the purchaser the money already paid after deducting therefrom a reasonable compensation for the use of such property, which in no case shall exceed 50 per cent. of the amount paid, unless the property have been broken, or actually damaged, and then a reasonable compensation for such damage shall be allowed. Any person violating this last provision subjects himself to a fine not exceeding \$100. A bailee, or conditional vendee, who sells or otherwise disposes of the property entrusted to him, or removes the same from the county, with intent to defraud, is guilty of a misdemeanor and liable to a fine and imprisonment.



**Pennsylvania.**—A distinction is made between the bailment of a chattel with power in the bailee to become the owner upon the payment of the price agreed upon, and the sale of a chattel with the stipulation that the title shall not pass to the purchaser until the contract price shall be paid. The former is valid, and the right of the bailor to resume possession on non-payment is secure against creditors of the bailee, and *bona-fide* purchasers from him. The latter is held invalid as against creditors of the vendee and *bona-fide* purchasers from him. A lease of personal property may be made for a stipulated rent, accompanied with an agreement to make title when a given sum is paid. The title of the lessor will not be divested by a sale under an execution against the lessee. Property so leased is liable to distress for rent.

**South Carolina.**—Conditional sales of personal property must be recorded in the same manner as chattel mortgages, in order to affect the rights of third parties who have no actual notice.

**South Dakota.**—All sales of personal property where the possession is delivered to the vendee on condition that the title shall remain in the vendor until the purchase money is paid, shall vest such title in the vendee as to third persons, without notice of such conditions, unless such contract be in writing and filed with the register of deeds of the county where the vendee resides.

**Tennessee.**—Personal property may be sold and title retained by the vendor until he is fully paid, the purchaser in the meantime being in possession of the property. The contract must be in writing and need not be registered.

**Texas.**—All reservations of the title to, or property in, chattels as security for the purchase money thereof shall be held to be chattel mortgages and shall, when possession is delivered to the vendee, be void as to creditors and *bona-fide* purchasers, unless such reservation be in writing and registered as required of chattel mortgages. Instalment leases of personal property, accompanied with an agreement to make title when a given sum is paid, are permitted, but such instruments must be filed in the county clerk's office in order to protect the lessor from complications with third parties.

**Utah.**—There is no statute on the subject of conditional sales. The supreme court has held that a conditional sale is good and valid as well against third persons as against parties to the transaction, and that such bailee of personal property or conditional purchaser cannot convey the title or subject it to execution for his own debts until the condition on which the agreement to sell was made has been performed.

**Vermont.**—The lien of a vendor of personal property by conditional sale is not good against *bona-fide* purchasers or attaching

creditors, unless a written statement of such lien be recorded in the town clerk's office within 30 days from the time of delivery. If the purchaser be a non-resident of the state, the record must be made in the town where the vendor resides.

**Virginia.**—In every sale or contract for the sale of goods and chattels, where the title is reserved until payment is made, or the transfer is dependent on any condition, and possession is delivered to the vendee, in respect to such reservation or condition, the sale is void as to creditors and purchasers for value and without notice, unless such sale or contract be in writing expressing the reservation or condition, and signed by both vendor and vendee, and until a memorandum of said writing setting forth the date, the amount due, and a brief description of the goods be docketed in the office in which deeds are recorded. A docket of such contracts indexed in the name of the vendor and vendee is kept. If the goods or chattels consist of locomotives, cars, other rolling stock, equipments, or personal property used in or about the operation of a railroad, the writing must be duly admitted to record, and a copy filed in the board of public works, and each locomotive, car, or other piece of rolling stock, be marked on both sides with the name of the vendor followed by the word *owner*. No acknowledgment is needed except in case of railroads.

**Washington.**—All conditional sales or leases of personal property, containing a conditional right to purchase, where the property is placed in the possession of the vendee, shall be absolute as to all creditors or purchasers of the vendee in good faith, unless within 10 days of the taking of possession by the vendee a memorandum of such sale stating its terms and conditions, and signed by the vendor and vendee shall be filed in the auditor's office of the county wherein at the date of the vendee's taking possession the vendee resides. It is made the duty of the auditor to record the memorandum in a book styled "Conditional Sales," and to index the same in the general index of instruments in his office with reference to the volume and page in which it is recorded.

**West Virginia.**—Where a sale is made of goods and chattels, possession delivered, and the title reserved until the purchase money is paid, such reservation is void as to creditors of, and purchasers without notice from, the buyer, unless a notice of such reservation be recorded in the office of the clerk of the county court of the county in which the goods are, or in case the chattels consist of engine, cars, rolling stock, or equipments to be used in the operation of a railroad, unless the notice be recorded in the office of the secretary of state.

**Wisconsin.**—Instalment leases, and contracts for the conditional sale of personal property, reserving title in the lessor or vendor, but delivering possession to the lessee or vendee, are invalid as against



third parties who have no notice, unless in writing and filed in the manner prescribed for filing chattel mortgages.

**Wyoming.**—No sale, contract, or lease wherein the transfer of title to personal property is made to depend upon any condition shall be valid against any purchaser or judgment creditor of the vendee or lessee in possession, without notice, unless the same be in writing signed by the vendee or lessee, and the original or a copy thereof filed in the office of the county clerk of the county wherein the property is; said instrument so filed shall have attached thereto an affidavit of such vendor or lessor, or his agent or attorney, which shall set forth the names of the vendor and vendee, or lessor and lessee, with a description of the property transferred, and the full and true interest of the vendor or lessor therein. All such sales or transfers shall cease to be valid against purchasers in good faith, or judgment, or attaching creditors without notice at the expiration of 1 year from the date of such sale, unless the vendor or lessor shall within 30 days prior to the 1 year from the date of such sale or transfer file a similar affidavit to the one above provided for in the office of said clerk, and the said vendor or lessor may preserve the validity of his said sale or transfer of such personal property by an annual refiling in the manner as aforesaid of such copy.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Receipt notes or hire receipts given on conditional sales of goods must be filed within 21 days with the government agent of the district, or if on Vancouver Island with the register-general, and a copy left with the vendee; otherwise, they are void as against subsequent purchasers or mortgagees.

**New Brunswick.**—The contract evidencing a conditional sale of chattels must be filed in the registry office to be valid as against subsequent mortgagees or purchasers.

**Ontario.**—An agreement may be made between the vender and the purchaser of merchandise of any kind transferred for the purpose of resale in the course of business, the possession to pass, but not the absolute ownership, until certain payments are made or other consideration satisfied; but in order to validate such provision as to ownership as against creditors, mortgagees, or purchasers, the agreement must be in writing and must be registered in the proper office. In the case of the conditional sale of manufactured goods and chattels, if, at the time possession is given, the name and the address of the manufacturer or vendor be plainly marked thereon, registration is unnecessary, and the latter is only required to validate the sale as against subsequent mortgagees and purchasers, creditors not being protected in this way.



## CORPORATIONS

**Alabama.**—The constitution provides that corporations may be formed and their charters altered, repealed, or amended under the general laws of the state, but shall not be created by special act of the legislature. Each corporation must pay franchise tax in proportion to amount of capital stock, but this does not apply to religious, benevolent, or educational corporations. No corporation shall engage in any business other than that expressly authorized by its charter, nor issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void; and the stock or bonded indebtedness shall not be increased, except in pursuance of general laws, nor without consent of the persons holding the larger amount, in value, of stock first obtained at a meeting to be held after 30 days' notice is given in pursuance of the law. All corporations shall have the right to sue and be sued like natural persons. The shares of the capital stock of any corporation which is required to list its property for taxation, shall not be assessed against the shareholders. Taxes shall be assessed on the capital stock of all corporations, except such portions of such stock as may be invested in property which is otherwise taxed. The taxable property of every corporation, not otherwise regulated as to taxation, shall be returned to the assessor by the president or chief officer, with the estimated value thereof, who shall state the number of shares into which the capital stock is divided, the par value and the actual market value thereof, and the items of property in which its capital is invested, with the value thereof, and if such list is furnished no tax shall be levied or collected of the shareholders thereof. Preference is given to stockholders in taking increased capital stock. Preferred stock shall not be issued without consent of owners of two-thirds of stock. Corporations have power to borrow money, and to mortgage and convey their property, including franchises. Shares of stock are personal property; transfers of stock are not valid against *bona-fide* creditors, or subsequent purchasers, without notice, unless such transfer has been registered on the books of the company. A transfer may be made by executor or administrator. Stock is subject to levy and sale for stockholders' debts, but all private corporations have a lien on the stock for liability incurred to it by a stockholder. Non-use of a franchise for 5 consecutive years works a forfeiture thereof; as also a failure to organize for 2 years after filing the declaration; but a failure to elect officers does not dissolve the corporation; those in office hold

over; a majority of the board of directors exercise corporate powers; stockholders' meetings must be held annually; special meetings may be called; each stockholder has one vote for each share; but the failure to hold meetings annually or to elect directors regularly shall not forfeit the charter. The probate judge must keep a record of the declaration, commission, proceedings of meetings of subscribers, list of subscriptions, affidavit and certificate of incorporation, which together constitute the charter. Corporations may be dissolved by petition of a majority of the stockholders owning three-fourths of the stock, and a receiver appointed by the chancellor to wind up its affairs. Three or more persons may become a body corporate for the purpose of carrying on any lawful business whatsoever. The manner of incorporating is as follows: A certificate of incorporation shall be signed by all the subscribers to the capital stock and shall set forth the name of the corporation, which shall not be identical with that of any other corporation, individual, or partnership; the objects of the corporation; location of its principal office in Alabama; the amount of the total authorized capital stock, which shall not be less than \$2,000; the number of shares; the amount of capital stock with which it will begin business, not less than 25 per cent. of the authorized capital and in no case less than \$1,000; the name and post-office address of the person designated to receive subscriptions to the capital stock, and also of the incorporators with the number of shares subscribed for by each; the period limited for duration of the corporation (it may be made perpetual), and any other provision that the incorporators may choose to insert for the regulation of the business and conduct of the affairs of the corporation and which are not inconsistent with the general law. Attached to this certificate is a statement under oath, by the person authorized to receive subscriptions to the capital stock, of the amount of the capital stock paid in; and the amount secured by contract for labor, or services, or transfer of property, which amount so paid in and secured shall be at least 20 per cent. of the stock subscribed for, and in no case less than \$1,000. This certificate is filed and recorded in the probate judge's office in the county of the corporation's principal place of business, and the probate judge is entitled to receive 15 cents for each one hundred words for the recording of the certificate and \$2.50 for the examination of the same. The incorporators have also to pay to the probate judge for the use of the state the following charter fees: Capital of \$50,000 or less, \$25; \$50,000 to \$100,000, \$50; in excess of \$100,000, \$50 on the first \$100,000 and \$25 on each additional \$100,000 or fractional part thereof. Upon the filing of the certificate as aforesaid and payment of the probate judge's fees and charter fees, the individuals become a body corporate and the aforementioned record constitutes the charter. Within 10 days after the filing of the certificate, the incorporators must cause to be filed with the secretary of state a statement signed by the probate judge giving the



corporation's name and names of incorporators, date of incorporation, amount of capital stock, and name of the county in which it is incorporated, and shall pay to the secretary of state for the use of the state a fee of 50 cents. Such corporations then have the power to carry on the business, or to accomplish the purposes expressed in the declaration, and to borrow money, and to do other things essential to its expressed purposes. The general laws also provide for the incorporation of banks and banking within certain constitutional limitations; also for building and loan associations to continue for 20 years, with power to do certain things appertaining to the nature of such a business; also commercial and business corporations, such as navigation companies, mining, quarrying, and manufacturing companies. Railroad companies consisting of not less than seven stockholders; and street-railway companies by any number of persons in towns and cities; also telegraph companies by two or more persons; also macadamized, turn-pike, and other pole-road companies by any number of persons not less than seven; also civil and municipal corporations of towns, the population of which is not less than 100 nor more than 3,000 inhabitants, upon a petition in writing signed by twenty or more of the adult male inhabitants, stating the name, boundaries, etc. The property of municipal corporations is not to be taxed. The cities and larger towns of the state are all incorporated under the special acts of the general assembly of Alabama, from which they derive all of their charter rights and privileges. Foreign corporations are prohibited from transacting business in this state without having an authorized agent and a known place of business within the state, and without filing with the secretary of state a certified copy of charter, and may be sued in any county where it does business, by service of process upon an agent anywhere in the state. Foreign corporations may acquire, own, and hold shares of stock in domestic corporations, except that telegraph and telephone companies cannot consolidate with, purchase, or hold controlling interest in similar company owning competing line, and have the same rights and privileges for transacting business as local corporations, if they comply with the foregoing requirements. Mining, quarry, and manufacturing corporations and other private business corporations may hold meetings of directors and do and perform corporate acts in any state of the United States. Stockholders' meetings may be held without Alabama with written consent of all Alabama stockholders, duly acknowledged and recorded in the office of the secretary of state of Alabama. All corporations incorporated under the laws of this state before they are authorized to do business are required to pay to the judge of probate or other officer issuing a certificate \$25 where the proposed capital does not exceed \$50,000; \$50 where it exceeds \$50,000, but does not exceed \$100,000; and when the amount of capital stock exceeds \$100,000, \$50 on the first \$100,000 of excess or portion thereof, and \$25 on each subsequent \$100,000 increase or any part thereof. All



corporations or mutual companies having no corporate stock shall pay a fee of \$25. All foreign corporations are required to pay into the treasury of the state like fees as those required of corporations organized under the laws of this state. Failure to comply with the provisions of the law requiring such license fees invalidates any contract made by the corporation so failing to comply with the law.

**Alaska.**—All corporations or joint stock companies organized under the laws of the United States, or the laws of any state or territory of the United States, shall, before doing business within the district, file in the office of the secretary of the district and in the office of the clerk of the district court for the division wherein they intend to carry on business, a duly authenticated copy of their charter or articles of incorporation, and also a statement, verified by oath of the president and secretary of such corporation, and attested by a majority of its board of directors, showing: (1) The name of such corporation and the location of its principal office or place of business without the district; and, if it is to have any place of business or principal office within the district, the location thereof; (2) the amount of capital stock; (3) the amount of its capital stock actually paid in in money; (4) the amount of its capital stock paid in in any other way, and in what; (5) the amount of the assets of the corporation, and of what the assets consist, with the actual cash value thereof; (6) the liabilities of such corporation, and, if any of its indebtedness be secured, how secured, and upon what property. Such corporation or joint stock company shall also file, at the same time and in the same offices, a certificate, under the seal of the corporation and the signature of its president, or other acting head if there be one, certifying that the corporation has consented to be sued in the courts of the district upon all causes of action arising against it in the district, and that service of process may be made upon some person, a resident of the district, whose name and place of residence shall be designated in such certificate, and such service, when so made upon such agent, shall be valid service on the corporation or company, and such agent shall reside at the principal place of business of such corporation or company in the district.

**Arizona.**—Special provisions are made for the incorporation of marine, fire, mutual life, health, accident, savings and loan, railroad, religious, social, and benevolent corporations. Any number of persons may be incorporators of a company for the transaction of any lawful business. They must adopt articles and record the same in the recorder's office of the county where the principal place of business is. The articles must have the usual contents as to name, nature, etc., and also state the highest amount of indebtedness or liability to which the corporation is at any time to subject itself, and whether the private property of the stockholders be exempt. They must be published

6 days in a newspaper published in the county of its principal place of business. A copy of the newspaper must be filed in the office of the secretary of the territory within 3 months. The charter is limited to 25 years, but may be renewed. Unless exempted by the articles of incorporation, a stockholder is liable for corporate debts in the proportion which his stock bears to the whole. Foreign corporations must file certificates and duly authenticated copies of their articles of incorporation with the secretary of the territory and the county recorder of the county in which the business or principal office is located, and must also file in the same places a lawful appointment of an agent upon whom all notices and processes may be served. Every act done prior thereto is void. The agent must be a *bona-fide* resident of the county, and his full name and residence stated in the resolution. If the agent absent himself 3 months consecutively from the county, and none be appointed within 4 months after commencement of such absence, the right to transact business shall cease, and all acts or contracts are null and void at the option of any person interested. A foreign corporation cannot hold more than 320 acres of real estate, exclusive of mineral lands and lands necessary for milling, or working ores, or manufacturing, or for commercial purposes.

**Arkansas.**—Corporations may not be created by special charter. Not less than three persons may be incorporators. The articles of incorporation and certificate must be filed in the office of the secretary of state, and a duplicate with the clerk of the county in which the corporation is to transact business. A certificate of transfer of stock must be filed with the clerk of the judicial district where the corporation has its place of business. The president and the secretary are required to file with the county clerk an annual statement of the financial condition of the corporation, and, in case of a failure to do so, they become liable for its debts. If the directors declare a dividend when the corporation is insolvent, they become liable for all the corporate debts. The secretary and the treasurer must reside and keep the books of the company within the state. Corporations of other states must file with the secretary of state a certificate of the president, under the corporate seal, designating an agent citizen, upon whom process can be served, and stating the place of business in this state, and (except railway, express, palace-car, and insurance companies) shall also file a copy of its charter or articles of incorporation in the offices of the secretary of state and clerk of the county in which it opens an office, with a statement showing the proportional part of its capital stock in use in its business both in the state and in the county in which it is doing business; otherwise, all contracts are void, and a fine of \$1,000 is assessed.

**California.**—Three or more persons may incorporate, a majority of whom must be residents of this state. Upon filing the articles of



incorporation in the office of the county clerk of the county in which the principal business of the company is to be transacted, and a copy thereof, certified by the county clerk, with the secretary of state, and the affidavit mentioned hereinafter where such affidavit is required, the secretary of state must issue to the corporation over the great seal of the state a certificate that a copy of the articles containing the required statement of facts has been filed in his office, and thereupon the persons signing the articles, and their associates and successors, shall be a body politic and corporate by the name stated in the certificate. The corporation may exist for a term of 50 years only, unless it is stated otherwise in the articles of incorporation, or unless it be otherwise provided in the code. Before the secretary of state issues to any railroad, wagon-road, or telegraph corporation a certificate of the filing of articles of incorporation, there must be filed in his office an affidavit of the president, secretary, or treasurer named in the articles, that the required amount of capital stock thereof has been actually subscribed, and 10 per cent. thereof actually paid to the treasurer for the benefit of the corporation. No stockholder may be permitted to vote at a corporate election unless the stock have been standing in his name on the books of the company for 10 days prior to the election. Cumulative voting is allowed, except as to religious, literary, scientific, social, or benevolent societies, unless it shall be so provided by the by-laws and rules. Each stockholder of a corporation is individually and personally liable for such proportion of its debts and liabilities as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation. Any creditor of the corporation may institute joint or several actions against any of its stockholders for the proportion of his claim, payable by each, and in such action the court must ascertain the proportion of the claim or debt for which each defendant is liable, and a several judgment must be rendered against each in conformity therewith. The liability of each stockholder of a corporation formed under the laws of any other state or territory of the United States, or any foreign country, and doing business within this state, shall be the same as the liability of a stockholder of a corporation created under the laws of this state.

**Colorado.**—No charter of incorporation shall be granted by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as may be under the control of the state. Three or more persons may be incorporators. The corporate name of every incorporation shall commence with the word *The*, and end with the word *Corporation*, *Company*, *Association*, or *Society*, and shall indicate by its name the business to be carried on by said corporation. Persons desiring to form a company may make, sign, and acknowledge certificates in writing, in which shall be stated the corporate name, the



object for which created, the amount of capital stock, the term of its existence, the number of shares of said stock, the number of directors or trustees, the names of those who shall manage its affairs for the first year, the name of the town, place, or county in which the principal office shall be kept, and the name of the county or counties in which the principal business shall be carried on. They shall make as many such certificates as may be necessary, so as to file one in the office of the recorder of deeds in each of such counties and one in the office of the secretary of state; and when any company shall be created under the laws of this state for the purpose of carrying on part of its business beyond the limits thereof, such certificate shall also state that fact, and shall also name the town and county in this state in which the principal office of said company shall be kept. Shares of stock shall not be less than \$1 nor more than \$100 each.

The president and a majority of the directors or trustees after the payment of the last instalment of the capital stock shall make a certificate, stating the amount of the capital so fixed and paid in, and they shall record the same in the office of the secretary of state, and a copy thereof in the office of the recorder of deeds in the county wherein the business of the said company is carried on. Every corporation whose capital stock has not been fully paid in, and a certificate of full-paid capital stock been filed, shall annually, within 60 days from the first of January, make a report, which shall state the amount of its capital and the proportion actually paid in, and the amount of existing debts, which report shall be filed in the office of the recorder of deeds in the county where the business of the company shall be carried on, and a failure to file such annual statement shall render all the directors of the company jointly and severally liable for all the debts of the company that shall be contracted during the year next preceding the time when such report should have been made, and until such report shall be made. No transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the company, unless it shall have been entered on the books of the company within 60 days from the date of such transfer by an entry showing to and from whom transferred.

All corporations must file an annual report with the secretary of state within 60 days from the first of January, contents of which differ with different corporations. Such reports are to be signed by the president, verified by the oath of the president and secretary under the corporate seal. If such report be not filed, the directors and officers are liable for all debts contracted by the company during the preceding year. Unless it shall be stated in the certificate of incorporation that meetings of the directors may be held beyond the limits of this state, or unless such meeting have been authorized or its acts have been ratified by a vote of a majority of the stockholders at a regular meeting, the action of any such meeting shall be void. All corporations

must pay an annual license tax before May 1, as follows: Domestic corporations of \$25,000 capitalization or over, 2 cents for each \$1,000 of its capital stock; foreign corporations, 4 cents on each \$1,000 of its capital stock, unless the par value of their shares is less than \$1, and in that event they shall pay at the rate of 2½ cents on each one thousand shares of its stock. Until the tax is paid, the right to do business is forfeited. Every corporation doing business and owning property in two or more counties of this state shall make out and deliver annually before June 1 to the state auditor its schedule and sworn statement. Such company wilfully failing so to do shall pay \$100, and \$100 for each day such report is delayed after June 1.

Foreign corporations, before they are permitted to do any business in this state, shall make and file a certificate with the secretary of state, and in the office of the recorder of deeds of the county in which such business is carried on, designating the principal place where its business shall be carried on in this state, and the authorized agent or agents in this state, residing at its principal place of business, upon whom process may be served, and such corporations shall be subject to all the liabilities, restrictions, and duties which are or may be imposed upon domestic corporations, and shall have no other or greater powers.

**Connecticut.**—The formation of all corporations except banks, savings banks, trust companies, building and loan associations, insurance, surety, and indemnity companies, steam- or street-railroad companies, telegraph, gas, electric-light, or water companies, or any company needing the right of eminent domain, is regulated by the Corporation Act of 1901. Three or more persons may be incorporators. The certificate shall set forth the name, beginning with *The*, and ending with *Corporation* or *Incorporated*, name of town in this state in which its principal office is located, nature of the business, amount of capital stock (not less than \$2,000), the number of shares (not less than \$25 each), the amount with which business will be begun (not less than \$1,000), and the different classes of stock, and the limitation of time, if any. The certificate may also contain any lawful provisions for the regulation of business, defining the powers of the corporation, the directors, or any class of stockholders. This certificate, signed and sworn to by the incorporators, shall be filed in the office of the secretary of state, and a certified copy shall be filed in the office of the town clerk of the town in which it is located. Corporate existence begins with the filing of the certificate and paying the state tax.

After the required amount of capital stock has been subscribed, a majority of the incorporators shall call the first meeting of the corporation, at a time and place designated by a notice published twice, at least 7 days before, in a newspaper of the state circulating in the town where the corporation is located; which notice may be waived by all



the subscribers in writing. Business shall not be begun until its directors are elected and by-laws adopted, nor until the directors have filed with the secretary of state a sworn certificate stating the amount of capital stock paid in, whether in cash or otherwise, and the name, address, and place of residence of each subscriber, and of each officer and director. No corporation shall begin business until at least 50 per cent. of its authorized stock has been subscribed for by *bona-fide* subscribers; nor until 20 per cent. of said subscriptions has been paid in, amounting at least to \$1,000. No stock shall be issued until paid for in full. Increase or reduction of capital, or issue of preferred shares, must be approved by two-thirds of all outstanding stock of each class at a specially named meeting. A tax must be paid, on filing the certificate, of 50 cents on every \$1,000 of authorized capital up to \$5,000,000; and of 10 cents on every \$1,000 of excess, which in no case shall be less than \$25, which shall be in lieu of all other taxes on its franchise. The same tax must be paid on an increase of capital stock.

All stockholders' meetings shall be held in this state. The directors shall be elected annually. They shall at least once a year make a detailed report of the financial condition of the corporation to the stockholders. Stockholders voting for a reduction of capital stock rendering the corporation insolvent are jointly and severally liable for any indebtedness existing at the time of such vote. The president and treasurer shall annually, on or before February or August 15, file with the secretary of state and the town clerk a sworn certificate stating the names and addresses of officers, and of stockholders whose stock is not full paid, the location of its principal office, the amount of its capital stock, and certain other matters.

Foreign corporations are under all the obligations of domestic ones, including the making of annual reports. Such corporations, before doing business in this state, must file with the secretary of state a certified copy of its charter together with a sworn statement showing the amount of its capital stock and the amount paid thereon, and, if any part of such payment were made otherwise than in money, the particulars thereof. They shall also appoint the secretary of state attorney, upon whom process may be served.

**Delaware.**—Corporations are organized under the general Corporation Act of 1899. The act provides special modes of incorporation for steam railroads, electric railroads, electric-light, heat, and power companies. Other corporations are organized as follows: Not less than three persons may be incorporators. There must be filed a certificate with the secretary of state setting forth the name of the corporation; the name of the place in which its principal office or place of business is to be located in this state; the nature of the business; the amount of the total authorized capital stock of the corporation, which shall not be less than \$2,000, the number of shares into which the



same is divided, and the par value of each share; the amount of capital stock with which it will commence business, which shall not be less than \$1,000, and, if there be more than one class of stock created by the certificate of incorporation, a description of the different classes, with the terms on which the respective classes of stock are created; provided, however, that the provisions of this paragraph shall not apply to religious or literary corporations, unless it be desired to have a capital stock; in case any religious or literary corporation desires to have no capital stock, it shall be so stated, and the conditions of membership shall be also stated; the names and places of residence of each of the original subscribers to the capital stock, or if there be no stock, of the original incorporators; whether or not the corporation is to have perpetual existence; if not, the time when its existence is to commence and the time when its existence is to cease; by what officers or persons the affairs of the corporation are to be conducted, and the time and place at which they are to be elected; the value of the real and personal estate of which the corporation may become seized and possessed; the highest amount of indebtedness or liability which the corporation may at any time incur; whether the private property of the stockholders, not subject by the provisions of the law under which it is organized, shall be subject to the payment of corporate debts, and, if so, to what extent. The certificate of incorporation may also contain any provisions which the incorporators may choose to insert for the regulation of the business and for the conduct of the affairs of the corporation, and any provisions creating, defining, limiting, and regulating the powers of the corporation, the directors, and the stockholders, or any class of the stockholders, provided such provisions are not contrary to the laws of this state.

Original stock and stock transfer books may be kept out of the state, if duplicates of such books be kept at the principal office in this state. Stock fully paid up is non-assessable. A fee of 15 cents for each \$1,000 of the total amount of capital stock authorized is payable to the secretary of state upon the filing of the certificate of incorporation, but in no case is the fee less than \$20. Stockholders' meetings may be held out of the state, if so provided by the by-laws. Cumulative voting may be provided for by the by-laws. Directors may hold their meetings outside the state. Foreign corporations are required to file with the prothonotary of each county a certificate of the name of an authorized agent, upon whom service of process may be made.

**District of Columbia.**—Three or more persons who desire to form a company for the purpose of carrying on any business which may be lawfully conducted by an individual, excepting such as banks of circulation, railroads, safe-deposit, title-insurance and guaranty companies, and certain other enterprises which are specially provided for in the code, must file a certificate in writing, stating the corporate

name of the company, its object, term of existence (which may be perpetual), amount of capital stock, number of shares, number of trustees for first year, and location in the district in which the company is to operate. The certificate must be signed and acknowledged before some officer competent to take acknowledgments of deeds and filed in the office of the recorder of deeds, and when so filed the persons who have signed and acknowledged the same, and their successors, shall be a body politic and corporate in fact and in name. At the time of the filing of the certificate of incorporation, 40 cents on each \$1,000 of the amount of the capital stock of the corporation as set forth in said certificate must be paid to the recorder of deeds; provided, however, that no fee shall be less than \$25; and the recorder cannot accept any certificate of organization for record until he has proved that all of the capital stock of said company has been subscribed for in good faith and not less than 10 per cent. of the par value of the stock has been actually paid in in cash and the money derived therefrom is in the possession of the persons named as the first board of trustees. The president and a majority of the trustees, within 30 days after payment of the last instalment of the capital stock, must file a certificate in the office of the recorder of deeds stating the amount of capital so fixed and paid in. Duly certified copies of articles of incorporation, and a certificate setting forth that it is entitled to transact business and issue policies of every insurance company, including life, fire, marine, etc., doing business in the district, must be filed with the superintendent of insurance before any such company will be licensed to do business. No fire-insurance company, except mutual companies, organized in the district under special act of congress or general laws of the district, or mutual companies of other states licensed to do business in the district, which has a paid-up capital of less than \$100,000, will be permitted to do business in said district. And no insurance company organized outside of the territorial limits of the United States shall be licensed to do business in the district until it shall have complied with the laws of one of the states requiring a deposit of not less than \$100,000, or shall have deposited a like sum in the registry of the supreme court of the district. Annual reports are required to be made during the month of January of each year to the insurance commissioner and, upon failure to do so, any creditor or person interested may by petition for mandamus compel such report to be filed at the expense of the corporation or officer at fault.

**Florida.**—Corporations are created by letters patent under the general incorporation law of the state, though they may be by special act. Any three or more persons may become incorporated for the transaction of any lawful business of a public or private character. The proposed charter, containing the usual statement, with a notice of an intention to apply for letters patent, shall be published for



4 successive weeks. On due proof and examination the governor then grants the letters patent. A charter fee of \$2 for every \$1,000 of capital stock is payable to the state, but no fee may be less than \$5 or over \$250.

**Georgia.**—Charters of private corporations, except for banking, insurance, railroad, canal, navigation, express, and telegraph companies, are granted by the superior court of the county in which the business is to be transacted, on petition of the persons desiring the charter. Charters for the above-enumerated corporations are granted by the secretary of state on petition filed by the incorporators. The petition for private corporations of the class to be incorporated by the superior courts must state the objects of the association, the business, the corporate name, the amount of capital to be employed, the place of doing business, and the like, and must be published once a week for 1 month before the order granting corporate powers is passed. The charter is limited to 30 years. The payment of 10 per cent. of the capital stock is necessary before beginning business. Foreign corporations are recognized only by comity, and so long as the same comity is extended by the courts of the other states to corporations of this state. They cannot exercise within this state any corporate powers or privileges which by the constitution or laws of Georgia are denied to corporations created by this state, or which are contrary to the public policy of this state, nor are they allowed to own more than 5,000 acres of land in this state, unless they become incorporated under the laws of this state.

**Idaho.**—There are special provisions for the creation of railroad, wagon-road, and telegraph corporations. The provisions for other corporations are as follows: Five or more persons, one of whom must be a *bona-fide* resident of this state, may incorporate. The articles of incorporation must state the usual matters, including the number of directors, and the names and residences of those appointed for the first year. Corporate existence is limited to 50 years. Cumulative voting is allowed. Each stockholder is personally liable for his proportion of the debts of the corporation to the amount unpaid of the par value of stock owned by him.

**Illinois.**—Under the general corporation law, corporations for pecuniary profit may be formed for any lawful purpose, except banking, insurance, real-estate brokerage, operation of railroads, or the business of loaning money. Horse and dummy railroads, or organizations for the purchase and sale of real estate for burial purposes only, may be organized and conducted under the general law, and are not within the above exception. Corporations not for pecuniary profit, religious societies, railroads, insurance companies, mutual building, loan, and homestead associations, are organized under other acts. The number of those who sign and acknowledge the statement for a



corporation for pecuniary profit, must not be less than three nor more than seven. The statement must set forth the name of the proposed corporation, the object for which it is to be formed, its capital, the number of shares of which such stock shall consist, the location of the principal office, and the duration of the corporation, which statement shall be filed in the office of the secretary of state. Thereupon a license issues to such persons as commissioners to receive subscriptions. Upon all the stock being subscribed, the stockholders meet and elect directors. The commissioners report the proceedings to the secretary of state, and thereupon a final certificate of incorporation issues, and upon its being recorded in the office of the recorder of deeds of the proper county, the corporation is fully organized. The corporate existence is limited to 99 years. The shares may not be less than \$10 nor more than \$100 each. Certificates of stock may be assigned in blank and pass by delivery. The fees of the secretary of state for licenses are for \$2,500 capital or under, \$30; over \$2,500 and not over \$5,000, \$50; over \$5,000, \$50, and in addition \$1 for each additional \$1,000 capital stock over \$5,000. The stockholders may vote by proxy and upon the cumulative system. If the debts of the corporation exceed the amount of its capital stock, the directors and officers assenting thereto are liable to the creditors for such excess. Each stockholder is liable for the debts of the corporation to the extent of the amount unpaid on the stock held by him. The assignor and assignee are jointly liable until the stock is fully paid. It is the duty of the president, treasurer, and secretary to prepare annual reports of the condition of the company, and file them with the secretary of state.

Every foreign corporation carrying on business within this state is required to file in the office of the secretary of state a copy of its charter or articles of incorporation, duly authenticated; and the principal agent in Illinois shall forward to the secretary of state with such articles a sworn statement of the proportion of the capital stock of such corporation, which is represented by its property, located in, and the business transacted in, this state; and shall be required to pay into the office of the secretary of state, upon the proportion of its capital stock represented by its property and business in Illinois, incorporating taxes and fees equal to those required of similar corporations organized in this state. The law does not apply to insurance or to railroad companies which have built a line of railway in this state, or to traveling salesmen soliciting business in the state for corporations entirely non-resident. The penalty for not complying with the laws is a fine of not less than \$1,000, and the company is precluded from maintaining any action, either legal or equitable, arising out of contract or tort during such non-compliance.

**Indian Territory.**—The general corporation laws of Arkansas of 1884 are in force, for which see Arkansas, *supra*.

**Indiana.**—Corporations may not be created by special act. General laws have been passed, chief among which are those creating manufacturing and mining companies, voluntary associations, and associations for purposes other than those of pecuniary profit. These three general classes cover practically every kind of mercantile or manufacturing company, as well as associations for social, benevolent, educational, and religious uses. Three or more persons may be incorporators. Articles of association stating the usual things, and also the number of directors and those chosen for the first year, must be filed with the secretary of state and the recorder or clerk of the county. Corporate existence is limited to 50 years. The fees for filing the certificate with the secretary of state are \$10 for corporations whose capital stock is not over \$10,000, and one-tenth of 1 per cent. of all capital stock over \$10,000.

In companies organized to erect schoolhouses, tobacco inspection warehouses, slack-water navigation companies, companies erecting dams for hydraulic purposes, gas companies, bridge companies, companies for educational and benevolent purposes, for cemeteries, lodges, churches, and societies, associations for the organization of military and fire companies, for the erection of public buildings, for the planting and protection of shade trees, for building and conducting hotels, for buying and dealing in real estate, for conducting mineral springs, for sinking and operating gas and oil wells and disposing of the product thereof, for importing, improving, and registering live stock, for general mercantile operations, for forwarding and commission business and maintaining wharf boats, for insuring land titles, and for acting as agents or trustees and all companies not for pecuniary profit, stockholders are exempt from individual liability for corporate debts. Stockholders in manufacturing and mining companies are liable for all obligations to laborers, servants, apprentices, and employes for services rendered; if the stock have been fully paid up, there is no liability on the holder of it except for wages as aforesaid. Stockholders in telegraph, telephone, and steam-packet companies, and loan, trust, and safe-deposit companies are liable for corporate debts to an amount in addition to the stock held by them equal to the par value thereof. Stockholders in street and other railway companies and steam-packet companies are liable for wages of employes.

Agents of corporations not organized in this state, before entering upon their duties in this state, shall deposit in the clerk's office of the county where they propose to act, the power of attorney, or other authority, under which they act as agents, and a duly authenticated order, resolution, or other sufficient authority, of the board of directors or managers of such corporation, authorizing citizens or residents of this state having a claim or demand against such corporation, arising out of any transaction in this state with such agents to sue for, and



maintain an action in respect to the same in any court of competent jurisdiction, and further authorizing service or process in such action on such agent to be valid service on such corporation, and providing that such service shall authorize judgment and all other proceedings against such corporation. Contracts on behalf of such corporations made by agents shall not be enforced in any court in the state before a compliance with said sections.

**Iowa.**—Corporations are organized only under the general incorporation laws. Any number of persons may be incorporators. The articles of incorporation of a corporation for pecuniary profit must be signed and acknowledged by the incorporators, and then filed for record with the recorder of deeds of the county where the principal place of business is to be, and after that with the secretary of state, together with the recorder's certificate. The articles must fix the highest amount of indebtedness or liability which the corporation may incur, which shall not exceed two-thirds of the capital stock, except in the following cases: Risks of insurance companies; railway securities to be issued by railway companies of this state in aid of the location, construction, and equipment of railways, which shall not exceed \$16,000 per mile of single track, standard gauge, or \$8,000 per mile of narrow gauge; debentures, issued by a corporation and secured by actual transfer of real-estate securities equal in amount to the par value of such bonds or debentures, and to be first liens upon unencumbered real estate worth at least twice the amount loaned thereon. A notice of incorporation must then be published for 4 weeks in succession at or near the principal place of business, containing the name of the corporation and its principal place of transacting business; the general nature of the business to be transacted; the amount of capital stock authorized, and the times and conditions on which it is to be paid in; the time of commencement and termination of the corporation; by what officers or persons the affairs of the corporation are to be conducted, and the time at which they will be elected; the highest amount of indebtedness to which the corporation is at any time to subject itself; and whether private property is to be exempt from corporate debts. Business may begin as soon as the articles are filed with the recorder.

Corporations for the construction of any work of internal improvement, or for business of life insurance, may be formed to endure 50 years; all others only 20 years; but in either case they may be renewed from time to time for periods not greater respectively than was at first permissible, if three-fourths of the votes cast at any regular election for that purpose be in favor of such renewal, and if those wishing a renewal will purchase the stock of those opposed to the renewal at its fair current value. A transfer of shares is not valid, except as between parties, until it is regularly entered on the books of the company.

Any foreign corporation for pecuniary profit, other than mercantile or manufacturing, desiring to transact business in the state, must file with the secretary of state a certified copy of its articles of incorporation duly attested, accompanied by a resolution of its board of directors or stockholders authorizing the filing thereof, and also authorizing service of process to be made upon any of its officers or agents in this state engaged in transacting its business, and requesting a permit to transact business in the state, when such permit shall be issued by the secretary of state. Any foreign corporation that shall carry on its business and transact the same without having such a valid permit shall forfeit to the state \$100 for each and every day in which the business is transacted; and any agent, officer, or employee who shall knowingly transact such business for a foreign corporation which has no valid permit is guilty of a misdemeanor, and subject to a fine of \$100 for each offense, or imprisonment in the county jail not to exceed 30 days, and payment of all costs of prosecution.

**Kansas.**—There can be no incorporation by special act of the legislature. There are separate provisions regulating the different kinds of corporations, and to some extent the requirements of their organization. In general, they are formed as follows: Five or more persons, three of whom must be citizens of this state, may be incorporators; an application for a charter containing the usual statements must be executed, which, with an application fee of \$25, is forwarded to the charter board, which is composed of the attorney-general (who is president of the board), the secretary of state (who is secretary of the board), and the bank commissioner. The board, after thorough examination into the application, decides whether or not the charter will be granted. On payment of the charter fee, it will be lawful for the secretary of state to issue a charter, which will be done on payment of a filing fee of \$2.50. This also entitles the company to a certified copy of its charter. The term is limited to 20 years.

Any corporation may increase its capital stock to any amount not exceeding three times the amount of its authorized capital, by a vote of the stockholders in conformity with the company's by-laws; or such corporation may increase its capital stock to any amount by a vote of the stockholders in conformity with the by-laws, by an actual *bona-fide*, paid-up cash subscription thereto, equal to the amount of such increase. It is necessary that any change in ownership of any stock of the company be recorded in the office of the secretary of state. If the charter be allowed, before the same is filed with the secretary of state the company must pay to the state treasurer, for the benefit of the permanent school fund, a charter fee of one-tenth of 1 per cent. of its authorized capital stock upon the first \$100,000 of its capital stock; and upon the next \$400,000, or any part thereof, one-twentieth of 1 per cent.; and for each \$1,000,000, or major part thereof,



\$100. The annual meeting of the stockholders for the election of directors must be held within the state. Cumulative voting is allowed. Stockholders are liable for the debts in any corporation except railroads, and religious and benevolent societies, to the extent of any amount unpaid on their original subscription, and an additional amount equal to the par value of their stock. Certain detailed statements must be made on or before the first day of August in each year to the secretary of state by all corporations, except banking, insurance, and railway corporations; and the secretary of state may also, at any time, demand supplemental and further statements from such corporations, concerning information and data respecting corporations.

**Kentucky.**—Corporations may be organized under general laws only. There are special provisions as to banking, building and loan, trust, insurance, and railroad corporations. Not less than three persons may be incorporators. The articles of incorporation containing the usual statements, and also stating the highest amount of indebtedness or liability which the corporation may incur, and whether the private property of the stockholders, not otherwise subject to corporate debts, shall be liable therefor, and, if so, to what extent, must be acknowledged as deeds are and filed in the office of the county clerk of the county where the principal business is located, and, in the case of some corporations, a copy thereof filed in the office of the secretary of state. Every corporation doing business in the state must have the word *Incorporated* on all its signs, advertisements, and printed matter. Fifty per cent. of the capital stock must be subscribed before beginning business. On filing the articles of incorporation, a license tax of 1 per cent. on the capital stock is payable to the state. Elections must be by ballot and held within the state. The date of the annual election must not be changed within 60 days of the election. Cumulative voting is permitted. Stockholders are liable to creditors for their unpaid subscriptions, and for no further sum, except that stockholders in banks, trust, guaranty, investment, and insurance companies shall be liable equally and ratably, and not one for the other, for all contracts and liabilities of such corporation to the extent of the amount of their stock at par value, in addition to the amount of such stock. All corporations formed under the laws of this or any other state, and carrying on business in this state, shall at all times have one or more known places of business in this state, and an authorized agent thereat, upon whom process can be served; and it shall not be lawful for any corporation to carry on business in this state until it shall have filed in the office of the secretary of state a statement giving the location of its office or offices in this state, and the name of its agent thereat upon whom process can be served; and, if any corporation fail to comply with the requirements of this section,

such corporation and any agent or employe of such corporation, who shall transact any business in this state for it, shall be severally guilty of a misdemeanor and fined.

**Louisiana.**—Corporations may be organized for literary, scientific, religious, and charitable purposes, for purposes of general utility and public improvements (such corporations cannot engage in brokerage, stock jobbery, exchange, or banking business) by at least six persons. Except corporations for banking business, insurance, and railway corporations, any three or more persons can organize a corporation for carrying on any lawful business or enterprise not otherwise provided for, including any mechanical, mining, or manufacturing business, with a capital of not less than \$3,000. The legislature may not pass special incorporation acts. The charter must contain the usual statements, and be recorded in the office of the recorder of mortgages, and be published for 30 days, at least once a week, in a newspaper at its domicile, and a copy must be filed with the secretary of state.

**Maine.**—There are special provisions for banking, insurance, railroad, savings bank, trust, and safe-deposit companies. Other corporations are formed under the general laws as follows: Not less than three persons may be incorporators; the articles of incorporation and certificate must be filed with the secretary of state and with the attorney-general, and recorded in the registry of deeds of the county where the principal office is located; no part of the capital stock is required to be paid in before commencing business. Stock may be issued for property or services, and the judgment of the directors as to the value of such property or services is, in the absence of actual fraud, conclusive. On filing the charter there is payable a fee of \$5 each to the attorney-general and the secretary of state, and, if the capital stock be under \$10,000, a further fee of \$10 to the state treasurer, and, if the capital stock be over \$10,000, and do not exceed \$500,000, a fee of \$50, and for each \$100,000 in excess, a fee of \$10. Foreign corporations have practically the same rights as domestic.

**Maryland.**—Corporations shall not be created by special act, except for municipal purposes, or where there is no provision in the general laws providing for such proposed corporations. They must be composed of five or more persons, citizens of the United States, and the majority of them citizens of the state. A certificate under seal, setting forth the general purposes of the corporation, must be executed, acknowledged, and recorded in the office of the clerk of the court of the county or city where the chief office is located, or where its operations are to be carried on. Except cemetery companies, companies created for purely benevolent and charitable purposes, railroad companies, building or homestead associations, every corporation shall pay



to the state at the time of incorporation a bonus of one-eighth of 1 per cent. on its capital stock. Foreign corporations, except certain specified companies, must file in the office of the secretary of state, with a fee of \$25, a certified copy of its charter, and a sworn statement under its seal setting forth the amount of its capital stock. Any person or officer who shall act as agent before the above provisions are complied with shall forfeit to the state \$100 for each day he so acts.

**Massachusetts.**—Corporations may be organized under the general law for any mechanical, mining, or manufacturing business, except the distilling or manufacturing of intoxicating liquors, with a capital of not less than \$5,000 nor more than \$1,000,000. For the purpose of cutting, storing, or selling ice, or carrying on any agricultural, horticultural, or quarrying business, or printing or publishing newspapers, periodicals, books, and engravings, with a capital of not less than \$5,000 nor more than \$500,000. For the purpose of opening outlets, canals, or ditches, for introducing and propagating herrings and alewives, three or more persons may associate with a capital of not less than \$1,000 nor more than \$5,000; for transacting the business of a common carrier of persons or property, three or more persons may organize with a capital of not less than \$5,000 nor more than \$1,000,000. This includes the power of carriage of persons or property beyond the state, but not to purchase or operate railroads, canals, or ferries. For erecting and maintaining a hotel or hall, and buildings for manufacturing and mechanical purposes, three or more persons may organize with a capital of not less than \$5,000 nor more than \$500,000. Seven or more persons may organize for the purposes of cooperation, and carry on any business authorized in the first two classes before mentioned, of cooperative trade, with a capital of not less than \$1,000 nor more than \$100,000. For making and selling gas for lighting or generating, and furnishing steam from hot water for heating, cooking, and mechanical power; for generating and furnishing hydrostatic or pneumatic pressure for mechanical power, by ten or more persons, with a capital of not less than \$5,000 nor more than \$500,000. By ten or more persons with a capital of not less than \$200,000 nor more than \$1,000,000, to examine and guarantee titles to real estate. Also for the purposes of carrying on any lawful business not mentioned above, except buying and selling real estate, banking, insurance, and any other business the formation of corporations for which is otherwise regulated, by three or more persons, with a capital of not less than \$1,000 nor more than \$1,000,000. Special provisions are also made for organizing swine and slaughtering corporations; canal and bridge companies; companies for the transmission of intelligence by electricity; aqueduct corporations; associations of proprietors of wharves, general fields, and real estate lying in common; railroads; street railways; agricultural and horticultural societies; associations for charitable

and other purposes; fraternal organizations for insurance; savings banks, institutions for savings and for banking purposes; trust and insurance companies; cemetery companies; and companies for the purposes of cremation.

The capital stock must be paid in cash or by conveyance to the corporation of property, real or personal, at a fair valuation, in which case a statement must be made, signed, and sworn to by its president, treasurer, and a majority of the directors, giving a description of this property, and its value, with such details as the commissioner of corporations shall require or approve, and must be indorsed with his certificate that he is satisfied that such valuation is fair and reasonable. Provision is made in certain instances and under certain limitations for the issue of special stock subject to redemption at par after a fixed time, not exceeding two-fifths of the actual capital, upon which dividends not exceeding 4 per cent. semiannually will be paid, and the holders thereof are not liable for the debts of the corporation beyond their stock. The fee for filing and recording the certificate of incorporation with the secretary of state, including the issuing of the certificate of organization by the secretary, is one-twentieth of 1 per cent. of the capital stock, but not less than \$5 nor more than \$200.

The liability of officers is as follows: President and directors shall be liable for making or consenting to a dividend when the corporation is or thereby is rendered insolvent, to the extent of such dividend; for debts contracted between the time of making or assenting to a loan to a stockholder and the time of its repayment, to the extent of such loan; and, when the debts of a corporation exceed its capital, to the extent of such excess existing at the time of the commencement of the suit against the corporation upon the judgment in which the suit in equity to enforce such liability is brought. The president, directors, and treasurer shall be liable for signing any statement filed concerning paying in capital in property, not cash, where the property mentioned in such statement is not conveyed and taken at a fair valuation. And the president, directors, and other officers shall be so liable for signing any certificate required by law, knowing it to be false.

The members or stockholders shall be jointly and severally liable for its debts or contracts in the following cases, and not otherwise: For such as may be contracted before the original capital is fully paid in; but only those stockholders who have not paid in full the par value of their shares, and those who have purchased such shares with knowledge of the fact shall be liable for such debts; for the payment of all debts existing at the time when the capital is reduced, to the extent of the sums withdrawn and paid to stockholders; when special stock is created, the general stockholders shall be liable for all debts and contracts until the special stock is fully redeemed; for all sums of money due to operatives for services rendered within 6 months before demand made upon the corporation and its neglect or refusal



to make payment. Annual returns are required to the secretary of the commonwealth, stating the date of holding the annual meeting, the amount of capital stock, the amount then paid up, the name of each shareholder, the number of shares standing in his name, the assets and liabilities in form and detail as the commissioner of corporations requires. Failure for 2 successive years to make such annual statement renders the corporation liable to dissolution.

A foreign corporation must appoint in writing the commissioner of corporations as attorney upon whom lawful process may be served, and before transacting business must file with said commissioner a copy of its charter or certificate of incorporation, and a statement of the amount of capital stock, the amount paid in thereof to the treasurer, with the particulars of such payment, duly subscribed and sworn to. Manufacturing corporations which have complied with the provisions of the law in this state may purchase and hold such real estate in this state as may be necessary for conducting their business. Such corporations shall annually in March, under a penalty, file a sworn certificate of the amount of capital as fixed upon, paid up, assets, and liabilities. Officers, members, or stockholders of a foreign corporation, having a usual place of business here, are jointly and severally liable for its debts and contracts as domestic corporations.

**Michigan.**—Corporations, except for municipal purposes, must be formed under general laws, and cannot be created by special act. Not less than three persons may be incorporators. The articles of association must be filed with the secretary of state, and recorded with the recorder of deeds of the proper county. No corporation, except for municipal purposes, or for the construction of railroads, plank roads, or canals, can be created for a longer time than 30 years, but this term may be extended for another 30 years. The capital stock of mining and manufacturing companies must not be less than \$5,000 nor more than \$5,000,000, divided into shares of not less than \$10 each, and at least 10 per cent. must be paid in at the date of the articles. All corporations formed under the laws of Michigan, and which are required to file articles of association with the secretary of state, and every foreign corporation or association which shall be permitted to transact business in this state, shall pay to the secretary of state a franchise fee of one-half of 1 mill upon each dollar of the authorized stock of such corporation or association, and a proportionate fee upon any and each subsequent increase thereof, the minimum fee to be \$5. Stockholders are not generally liable beyond the par value of their stock, but are individually liable for corporate debts to certain laborers. Every corporation must annually, in January or February, file reports in the office of the secretary of state. A foreign corporation upon filing and recording

its charter, and evidence of the appointment of a resident agent, and which shall have paid to the secretary of state a franchise fee as before mentioned, may enjoy all the rights and privileges and be subject to all the restrictions and liabilities of a domestic corporation.

**Minnesota.**—Any number of persons, not less than five, may associate themselves and become incorporated for the purpose of building, improving, and operating railways, telegraphs, pneumatic-tube lines, electric lines, pike lines, canals, and all works of internal improvements which require the taking of private property for public uses, and any number of persons, not less than three, may associate themselves and become likewise incorporated for other purposes under the general law. Corporations are organized by adopting and signing articles of incorporation, which must be recorded in the office of the register of deeds in the county where the principal place of business is to be; also in the office of the secretary of state. The articles must contain the usual statements, and also give the highest amount of indebtedness or liability to which said corporation shall at any time be subject, and the names of the first board of directors and in what officers the government of its affairs shall be vested and when the same are elected. After the articles of incorporation are filed for record in the office of the secretary of state, they must be published for 1 week in a newspaper printed and published at the capital of the state or in the county where such corporation is organized, and upon filing an affidavit of proof of such publication in the office of the secretary of state, the corporation is organized. The duration of corporations empowered to take private property for public uses, except railroad corporations, cannot be for more than 50 years in the first instance, but may be renewed from time to time. Other corporations cannot be formed to continue for more than 30 years. Railroad corporations may be formed for any time designated in the articles of association. The capital stock must not be less than \$10,000 in shares of not less than \$10 nor more than \$100, except mutual building associations, whose shares may be \$200. The fee for filing the certificate is \$50 for the first \$50,000 of capital, and the further sum of \$5 for every \$10,000 of capital additional. Every stockholder in any corporation, except those organized for the purpose of carrying on any kind of manufacturing or mechanical business, is additionally liable for the debts of the corporation to the amount of the capital stock owned or held by him; also the private property of each stockholder in a corporation is liable for the corporate debts in the following cases: For all unpaid instalments on stock owned or held or transferred for the purpose of defrauding creditors; for a failure by the corporation to comply substantially with the provisions of the statute as to organization and publicity; when he personally violates any of the provisions of the statute in the transaction of any business



of the corporation as an officer, director, or member, or is guilty of any fraud, unfaithfulness, or dishonesty in any official duty.

A foreign corporation, organized for pecuniary profit and now or hereafter doing business in the state, is required to appoint a resident agent, upon whom process may be served, to file an authenticated copy of the appointment, together with its charter, franchise, or articles of incorporation, with the secretary of state, and also to pay into the state treasury a license fee computed on the proportionate amount of its capital stock represented by the business done and property located in the state. Corporations, more than 20 per cent. of the stock of which is held by persons or corporations not citizens of the United States, are restricted in the holding of real estate.

**Mississippi.**—Corporations, except railroads and insurance companies, may be created in the following manner: The proposed charter being reduced to writing must be published in the county of its proposed domicil for 3 weeks. It is then presented to the attorney-general, and if found by him to be unobjectionable on constitutional and legal grounds, it is approved by him. It is then submitted to the governor, and if approved by him the great seal of the state will be affixed by his direction. The charter is then recorded in the county of the company's domicil, and in the office of the secretary of state. Corporations may hold real and personal estate for its purposes not exceeding \$250,000, except manufacturies and banks, which may hold property to the amount of \$1,000,000. Such charters are limited to 50 years' duration. Shareholders are made responsible to the creditors of such corporations to the amount of their unpaid subscriptions, which responsibility shall last for 1 year after the sale of their shares. They are also liable for debts in excess of the capital stock paid in. Foreign corporations have all the privileges, rights, and liabilities in the courts of the state as domestic corporations; special statutes provide for service of process upon their agent. Special statutes as to foreign insurance companies doing business in this state are in force.

**Missouri.**—Corporations are created under general laws; special charters are prohibited. Special provisions exist for the organization and government of railroad, telegraph, telephone, mutual building, mutual savings, booming and rafting, and benevolent, religious, scientific, educational, and miscellaneous corporations. Manufacturing and business corporations may be organized by three or more persons. The articles of agreement for organizing such corporations shall set out the full corporate name, the name of the city or town and the county in which the corporation is to be located; the amount of the capital stock, the number of shares in which it is divided, and the par value thereof, that the same has been *bona fide* subscribed, and one-half

thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or managers; the names and places of residence of the several shareholders, and the number of shares subscribed by each; the number of the board of directors or managers, and the names of those agreed upon for the first year; the number of years the corporation is to continue; the purposes for which the association or company is formed. The articles of agreement must be signed and acknowledged by all the parties thereto and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located. A certified copy is filed with the secretary of state, who shall give his certificate that the corporation has been duly organized, which is evidence of the corporate existence in all the courts of this state.

The amount of the capital stock of the corporation shall be not less than \$2,000 nor more than \$10,000,000, and before the charter issues all must have been subscribed, and one-half paid in. Stock shall be issued only for money paid, labor done, or money actually received. The incorporators shall, at or before the filing of the articles of association, pay into the state treasury \$50 for the first \$50,000 or less of the capital stock of the association, and a further additional sum of \$5 for every additional \$10,000 of the capital stock. Cumulative voting for the election of directors is permitted. No stockholder can vote on stock unless it shall have been standing in his name on the books of the corporation at least 30 days prior to the election. The business of the corporation shall be managed by directors, not less than three nor more than thirteen in number, of whom at least three shall be citizens and residents of this state. If the par value of the stock have been received by the corporation, the stockholders are under no further liability either to the company or to its creditors, and under no circumstances are the stockholders liable for more than the par value of the stock. Every domestic corporation, other than railroad and insurance companies, is required to make a report annually, on the first day of July, to the secretary of state, of the location of its principal business office, the name of its president and secretary, the amount of its capital stock, both subscribed and paid up, the par value of its stock and the actual value of its stock at the time of making said report, the cash value of all its personal property and of all its real estate within this state on the first day of June immediately preceding, and the amount of taxes paid by the corporation in this state for the year last preceding the report, and when and to whom the same were paid.

Foreign corporations for pecuniary profit doing business in this state are required to maintain an office in this state for the transaction of business, where legal service may be had, subject to the same conditions as domestic concerns. Such corporation is not allowed to hold real estate for any period longer than 6 years, except such as may be necessary and proper for carrying on its legitimate business.



It is not permitted to mortgage or otherwise encumber its real or personal property situated in this state to the injury or exclusion of any citizen or corporation of this state being a creditor of such foreign corporation, and no mortgage by any foreign corporation except railroad and telegraph companies, given to secure any debt created in any other state, shall take effect as against any citizen or corporation of this state, until all its liabilities due to any person or corporation of this state at the time of recording such mortgage shall have been paid and extinguished. Foreign corporations doing business in this state must file in the office of the secretary of state a copy of the charter or certificate of incorporation, and pay into the treasury of the state upon the proportion of its capital stock represented by its property and business in Missouri, including the taxes and fees equal to those required of similar corporations formed within and under the laws of this state. The provisions of this act, however, do not apply to traveling salesmen soliciting business in this state for foreign corporations which are entirely non-resident. Upon failure to comply with the law, such foreign corporation is liable to a fine of not less than \$1,000, and, in addition, cannot maintain any suit, at law or in equity, in any court of the state. This, however, does not apply to railroad corporations or insurance companies.

**Montana.**—Corporations may be organized under general laws only. There are provisions for the incorporation of insurance, railroad, and telephone companies. Manufacturing and other industrial corporations may be formed as follows: Three or more persons may be incorporators. The certificate must set forth the usual statements, including the number of trustees, not less than three nor more than nine, and the names of the trustees who shall manage its affairs for the first 3 months. This must be filed in the office of the clerk of the county in which the business is to be carried on, and a duplicate thereof in the office of the secretary of state. The term of corporate existence is limited to 20 years. If the trustees fail to file the yearly certificate required, they shall be personally liable for all debts of the corporation then existing and for all that shall be contracted before such report shall be made. The trustees shall also be personally liable for the debts of the corporation if they consent to the payment of a dividend when the company is insolvent or consent to contracting indebtedness in excess of the amount of the capital stock of the corporation. Every corporation so organized shall annually, between the first and twentieth day of September, file in the office of the clerk and recorder of the county where the business of the corporation is carried on, a certificate signed by a majority of the trustees and verified by the oath of the president or secretary, stating the amount of the capital stock, the amount actually paid in, and the amount of the existing indebtedness.

Foreign corporations doing business within the state shall file in the office of the secretary of state and in the office of the clerk and recorder of the county wherein it intends to transact business, a certified copy of its certificate of incorporation; also, a statement verified by oath of the president or secretary of such corporation, and attested by a majority of its board of directors, showing the name of such corporation and the location of its principal office or place of business, the amount of its capital stock, the amount actually paid in money, the amount paid in any other way, the amount of the assets of the corporation, and of what they consist and the actual cash value thereof, and the liabilities of such corporation, and, if any indebtedness be secured, how secured and upon what property. Such corporation shall also, between the first and twentieth day of September in each year, file a certificate setting forth substantially the same matters as enumerated in the last-mentioned certificate. It shall also file a certificate under the seal of the corporation certifying that said corporation has consented to be sued in this state upon all causes of action arising against it in this state, and that service of process may be made upon some person who is a citizen of this state, whose name and place of residence shall be designated in such certificate. These provisions do not apply to a corporation engaged in interstate commerce that has not an established place of business within this state.

**Nebraska.**—There are several general laws for organizing corporations. Two or more persons may be incorporators. The articles of incorporation must be filed in the office of the county clerk where the principal place of business is situated, and also in the office of the secretary of state. Within 4 months there must be published a notice in a newspaper for 4 weeks which shall state the name, place, and nature of business, by what officers the business shall be transacted, the amount of the capital stock and the conditions under which it is to be paid, the time of commencement and termination of the corporation, and the highest amount of indebtedness it may incur, which in no case shall exceed two-thirds of the capital stock. The existence of the corporation dates from the filing of the articles. Cumulative voting is allowed. Annual notice must be published by the directors of all existing indebtedness. Stockholders are liable to the extent of their unpaid subscriptions, and upon failure of the corporation to comply substantially with the provisions of the law in relation to giving notice and other prerequisites of organization, or failure to give the annual notice of indebtedness, stockholders are additionally liable to the extent of the amount of the stock owned by them. Foreign corporations are restricted in the holding of real estate.

**Nevada.**—Any three or more persons may form a corporation for manufacturing, mining, milling, ditching, mechanical, chemical, building, navigation, transportation, farming, banking, hotel or



innkeeping, or ore-reduction purposes, or for the purpose of engaging in any other special trade, business, or commerce, foreign or domestic.

**New Hampshire.**—Corporations may be chartered by the legislature. Railroad corporations may be formed under a general law on application to the court. Banks may be chartered by special act only. Voluntary corporations may be chartered for any other purpose, with a capital of from \$1,000 to \$1,000,000, as follows: Five or more persons may be incorporators. The articles of agreement must be recorded in the town in which the principal place of business is located, and in the office of the secretary of state. The value of the share shall be not less than \$25 nor more than \$500. A charter fee is payable to the state treasurer of 1 per cent. on a capital of \$50,000; three-fourths of 1 per cent. on over \$50,000 and under \$100,000; one-half of 1 per cent. up to \$100,000, and three-eighths of 1 per cent. over that. Stockholders in all corporations, except banks and railroads, shall be liable for all debts of the corporation until the capital stock is fully paid, and a certificate under the oath of the treasurer and a majority of the directors shall have been recorded with the town clerk. Every corporation except banks, railroads, and insurance companies shall annually, in May, return a sworn report, signed by the treasurer and a majority of the directors, of its assets, liabilities, and any assessment, which report shall be recorded in the office of the secretary of state. A failure to make such a return makes the officers personally liable for all the company's debts.

**New Jersey.**—The general corporation act does not include insurance, safe deposit or trust companies, banking, telegraph, telephone, canal, railroad, or turnpike companies, or building and loan associations. Three or more persons may be incorporators. The certificate of incorporation shall be signed in person by all the subscribers to the capital stock, and shall set forth: The name of the corporation; the location of its principal office in the state; the object or objects for which the corporation is formed; the amount of the total authorized capital stock, number of shares, and the par value of each; the amount of capital stock with which it will begin business; and, if there be more than one class of stock created by the certificate of incorporation, a description of the different classes; the name and post-office address of the incorporators, and the number of shares subscribed by each; the period, if any, limited for the duration of the company; any provision for the regulation of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting, and regulating the powers of the corporation, the directors, and the stockholders, or any class or classes of stockholders. This must be recorded in the office of the clerk of the county where the principal office is located, and after being so recorded, shall be filed in the office of the secretary of state. The capital stock must not be less than \$2,000, and

the amount subscribed, with which it shall begin business, must not be less than \$1,000. The stock and transfer books must be kept at the registered office within the state. The fee on incorporation payable to the secretary of state is \$25 where the authorized capital stock is \$125,000 or less, and 20 cents for each \$1,000 in excess. The annual state franchise tax is one-tenth of 1 per cent. on all amounts of capital stock up to \$3,000,000; on any excess of capital up to \$5,000,000, one-twentieth of 1 per cent.; and on any excess over \$5,000,000, \$50 per annum per \$1,000,000. The annual elections must be held within the state. Cumulative voting may be provided for in the charter. Directors shall not be less than three in number, and one must be a resident of the state. Stockholders are liable only for unpaid subscriptions.

Every corporation, foreign or domestic, doing business within the state, shall file with the secretary of state within 30 days after the first election of directors, and annually thereafter 30 days after the election, a report authenticated by two directors, giving the name of the corporation, its registered office in this state, and its agent thereat, character of business, amount of capital, name of directors, and certain other matters. The corporation may be dissolved by a vote of two-thirds in interest of all stockholders. A foreign corporation must file a copy of the certificate of incorporation with the secretary of state and designate a citizen or corporation of this state as its agent in this state, and on failure to do so shall not maintain an action in this state upon a contract made in this state; foreign corporations doing business in this state, without having filed the certificate and designated its agent, shall be subject to fine.

**New Mexico.**—Corporations may be formed under general acts only. Three or more persons, a majority of whom are citizens of the United States and residents of New Mexico, may be incorporators. The articles of incorporation must set forth the usual matters as to the corporate name, stock, and number of shares, and the number and names of the directors who shall manage the business for the first three months. This must be filed with the secretary of the territory, and a copy thereof with the probate clerk of the county where the principal place of business is located. The term is limited to 50 years, which may be extended for an additional 50 years. There is no personal liability on stockholders except for debts incurred in excess of capital stock.

**New York.**—Corporations are created under general laws. They are either: Municipal; stock, including a moneyed corporation formed under the banking or insurance law, a transportation corporation, a railroad or business corporation; non-stock, including a religious corporation, or a membership corporation, including benevolent orders and firemen's and soldiers' monumental corporations, and a mixed corpor-



ation (a term apparently abandoned), including a cemetery, library, cooperative, board of trade, agricultural or horticultural company. The incorporators must be adult persons, two-thirds must be citizens of the United States, and one must reside in the state. They must file a certificate in the office of the secretary of state, and a copy or duplicate original in the office of the clerk of the county where the office of the corporation is to be located. When having no stock, corporations may hold property up to \$3,000,000 or of an income of \$500,000. Upon the consent of the stockholders in two-thirds the amount of capital stock, the existence of a domestic corporation may be extended to the extent of the original term of existence. A stockholder must pay in cash 10 per cent. of his subscription when he subscribes, and, if he fail to pay the remainder, his stock may be forfeited. A stock corporation cannot issue either stocks or bonds except for money or property actually received by it. The capital stock may be increased or reduced. On incorporation, there must be paid a tax of one-eighth of 1 per cent. on the amount of the capital stock. The real estate of corporations is taxable where it is situated; its personal estate where its principal office is located; its capital stock and its surplus profits, exceeding 10 per cent. of its capital, are taxable after deducting the assessed value of its real estate; and all its shares of stock in other corporations are to be assessed at the actual value.

No stockholder may vote on stock unless it shall have been standing in his name on the books of the corporation for at least 30 days prior to the election or meeting. The certificate of incorporation may provide for cumulative voting. Two directors must reside in the state. Directors are liable for making unauthorized dividends, for unauthorized debts, for the overissue of bonds, and for loans to stockholders. A stock book must be kept open for inspection during business hours. An annual report must be made in January, and must be signed by the majority of the directors. Officers are personally liable to creditors and stockholders for false certificates, reports, or public notices. Stockholders are jointly and severally personally liable to creditors in an amount equal to the amount of their stock for the debts of the corporation, and are similarly liable, upon certain terms, to any laborers, servants, or employes of the corporation. The stockholder cannot be held liable until an execution against a corporation has been returned unsatisfied, nor is he liable for a debt of the corporation after 2 years from the time when it was contracted.

Annually, within 20 days after January 1, a report of the condition of the company must be filed with the secretary of state, and with the county clerk. Failure to elect directors does not dissolve the corporation. Upon a dissolution, the directors become trustees for the creditors, stockholders, or members, unless a receiver be appointed. A foreign corporation must procure authority to do business in this state, and this is prerequisite to an action in this state on a contract made here

by a foreign corporation. A foreign corporation may hold real estate in this state.

**North Carolina.**—Domestic corporations may be formed under the general statute, either with or without personal liability of stockholders, by filing and recording a plan of incorporation, duly signed, in the office of the secretary of state. Thereupon the secretary of state shall record said articles of agreement or plan of incorporation in a book to be kept for that purpose, and known as the "Corporation Book," and he shall, upon the payment of the original tax and fees, certify under his official seal a copy of the said certificate of incorporation and probates, which certified copy shall be forthwith recorded in the office of the clerk of the superior court of the county where the principal office of said corporation in this state shall, or is to be, established, in a book to be known as the "Record of Incorporations;" and said certificate of incorporation, or a copy thereof, duly certified by the secretary of state, or by the clerk of the superior court of the county in which the same is recorded, shall be evidence in all courts and places, and shall in all judicial proceedings be deemed *prima-facie* evidence of the complete organization and incorporation of the company purporting thereby to have been established. Charters of corporations formed under the general law may be amended by proceedings before the secretary of state with whom the plan of incorporation was filed. They may also be created by a special act of the legislature. Corporations shall continue in existence after expiration of their charters to close up their business. For this purpose, a receiver or trustee may be appointed. A deed of a corporation may be signed by the president or presiding member or trustee and two other members of the corporation, attested by witnesses, or by the president or presiding member and attested by the secretary of the corporation. The corporate seal must be attached. Two years of non-user works a forfeiture of charter. Any conveyance of its property, whether absolutely or upon condition, in trust or by way of mortgage executed by any corporation, shall be void and of no effect as to the creditors of said corporation, existing prior to or at the time of execution of said deed, and as to the torts committed by such corporation, its agents or employees; provided, said creditors or persons injured, or their representatives, shall commence proceedings or actions to enforce their claims against said corporation within 60 days after the registration of said deed, as required by law. The property of any corporation may be sold under execution. The franchise of any corporation authorized to receive fare or tolls with all the rights and privileges thereof, so far as relates to the receiving of fare and tolls, may be taken on execution and sold under the rules regulating the sale of real estate. In the sale of the franchise of any corporation, the person who shall satisfy the execution with all costs



thereon, or who shall agree to take such franchise for the shortest period of time, and to receive during that time all such fare and toll as the said corporation would by law be entitled to demand, shall be considered as the highest bidder.

**North Dakota.**—Incorporation may be only by general acts. There are special provisions for railroad and insurance companies. Three or more persons, of whom one-third must be residents of the state, may be incorporated. The articles of incorporation must set forth the usual things, and must be recorded. Stock may be transferred only on the books of the company. Directors are liable, personally, to the creditors and to the corporations to the full amount of the capital stock divided, withdrawn, paid out, or reduced, or debts contracted in excess of the subscribed capital stock, and they must not make dividends except from the surplus profits arising from the business. Stockholders of a corporation are individually and personally liable for the debts of the corporation to the extent of the amount that is unpaid on the stock held by them. The liability of each stockholder is determined by the amount unpaid upon the stock or shares owned by him at the time the action is commenced, and is not released by any subsequent transfer of stock.

**Ohio.**—Corporations may be formed only under general laws. Corporations are divided into those for profit and those not for profit. Five or more persons, a majority of whom must be citizens of Ohio, may be incorporators of corporations for profit. The articles of incorporation containing the usual statements must be filed with the secretary of state. The name of the corporation must begin with the word "The" and end with the word "Company." The fee for incorporation is one-tenth of 1 per cent. of the capital stock, but not less than \$10. Corporations for profit must have at least five and not more than fifteen directors, a majority of whom must be residents of this state. Cumulative voting is permitted in their selection. Corporations for profit, organized under the Ohio laws, must make a written report to the secretary of state annually during the month of May, and every foreign corporation for profit, now or hereafter doing business in this state, and owning or using a part or all its capital or plant in this state, must make a similar report annually during the month of September. Stockholders are liable for the debts of the corporation only to the extent of the unpaid stock owned by them.

No foreign corporation, other than a banking or insurance corporation, can do business in this state without first procuring from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do such business. It must file in the office of the secretary of state a statement of its charter and other matters, and designate a place within the state as its principal place of business, and a person upon whom process may be served in actions

against such corporation. The fees for such certificates are, according to the amount of capital stock, as follows: \$100,000 or less, \$15; not exceeding \$300,000, \$20; not exceeding \$500,000, \$25; more than \$500,000 and less than \$1,000,000, \$30; \$1,000,000 or more, \$50. This statutory provision does not apply to the mere sale of goods by a traveling agent. Every foreign corporation (except as hereinafter stated) incorporated for profit, doing business in this state, shall, under oath of the president, secretary, treasurer, superintendent, or managing agent in this state, of such corporation, make and file with the secretary of state a statement showing the number and par value of the shares of capital stock, the names and residences of officers, the value of the property owned and used in, as well as out of, the state. No action can be maintained on any contract made here until such requirements are complied with. After compliance, an attachment cannot be maintained on the ground that it is a foreign corporation or a non-resident of the state. This provision does not apply to foreign insurance, banking, savings and loan, or building and loan companies, or to express, telegraph, telephone, railroad, sleeping-car, transportation, or other corporations engaged in Ohio in interstate commerce business, or to foreign corporations entirely non-resident, soliciting business, or making sales in this state by correspondence or by traveling salesmen.

**Oklahoma.**—Corporations are organized under general laws, by filing articles of incorporation with the secretary of the territory. There are statutory provisions for examination by the legislature into the affairs and condition of any corporation in the territory. Foreign corporations are required to file with the secretary of the territory a duly authenticated copy of the charter or articles of incorporation, and must appoint a resident agent, and file one copy of the appointment of such agent with the secretary of the territory and one copy in the office of the register of deeds for the county where the agent resides. Any three or more persons, the majority of whom shall be residents of the territory, may organize themselves into a banking association and be incorporated as a bank, with a capital stock, which shall be fully paid up, of not less than \$10,000 in towns or cities having less than 2,500 inhabitants, not less than \$15,000 in cities having more than 2,500 inhabitants and less than 5,000 inhabitants, not less than \$20,000 in cities having more than 5,000 and less than 10,000 inhabitants, and not less than \$25,000 in cities having over 10,000 inhabitants. The charter, which shall contain the names and places of residence of stockholders and the amount of stock subscribed by each, and such other provisions not inconsistent with the law as the stockholders may deem proper, shall be subscribed and acknowledged by at least three of the stockholders. Before the charter is filed, the full amount of capital is required to be paid up, not less than two-thirds in lawful money. Reports to the bank commissioner of the



resources and liabilities of the bank and publication of the same are required to be made four times each year. The penalty for not reporting is \$50 for each day after the period fixed for filing a report that the bank delays to make and transmit its report or the proof of publication. The bank commissioner is appointed by the governor by and with the advice of the council of the legislative assembly. His term is for 2 years, and until his successor is appointed and qualified.

**Oregon.**—Insurance companies and building and loan associations are under special statutory regulations, but other corporations may be formed as follows: Three or more persons may be incorporators. There must be executed and acknowledged articles of incorporation in triplicate, one copy of which is recorded in the office of the secretary of state, and one in the county where the corporation has its principal place of business, and the third is retained by the company. The articles must specify the name assumed, the duration, the business, the principal office or place of business, the amount of the capital stock, and the amount of each share. Directors must be residents of the state and stockholders. Corporations formed for carrying on a manufacturing business, publishing a newspaper, mining, constructing railroads, canals, flumes or military wagon roads, may have a minority of non-resident directors. Foreign corporations in general have the same rights and privileges as domestic corporations, but insurance, express, and surety companies must comply with certain regulations before doing business in this state.

**Pennsylvania.**—Corporations may be formed under general laws only. They are divided into two classes, those not for profit, as for religious, benevolent, educational, or social purposes, and those for profit, as nearly all business corporations. There are special laws for banks and railroad corporations. The charter of an intended corporation must be subscribed by three or more persons, one of whom at least must be a citizen of this commonwealth, and two at least must acknowledge the same. The charter must set forth the name of the corporation; the purpose for which it is formed; the place or places where its business is to be transacted; the term for which it is to exist; the names and residences of the subscribers, and the number of shares subscribed by each; the number of its directors, and the names and residences of those chosen for the first year; the amount of its capital stock, if any, and the number and par value of the shares. Charters for corporations of the second class, except building and loan associations, shall also state that 10 per cent. of the capital stock has been paid in cash to the treasurer of the intended corporation, and the name and residence of such treasurer. Notice of an intention to apply for any such charter shall be inserted in two newspapers of general circulation, printed in the proper county, for 3 weeks. Certificates of corporations of the first class are presented to the court of common

pleas, and, on approval, recorded in the proper county. Certificates of the second class are to be presented to the governor of the state, and, on approval, recorded in the office of the secretary of state, and also in the office of the recorder of deeds in the county where its chief operations are to be carried on. Charters may be made perpetual, or may be limited in time by their own provisions, subject to the power of the legislature to revoke.

The capital stock of every such corporation that requires capital stock shall not consist of more than \$1,000,000, but water companies may have a capital of \$2,000,000. Ten per cent. of the capital stock must be paid in at the time of the incorporation. Stock may be issued for real or personal property, necessary for the business of the corporation. Preferred stock may be issued in different classes. Corporations of the second class shall pay to the state treasurer, for the use of the commonwealth, a bonus of one-third of 1 per cent. upon its authorized capital stock, payable in two equal instalments, one upon incorporation, the other 1 year thereafter, and a like bonus upon any subsequent increase thereof. Where a majority of the directors or stockholders are citizens of another state, they may hold their meetings outside of this state, except the annual meeting for election of officers. In all elections for directors, managers, or trustees, cumulative voting is allowed. Directors must be not less than three nor more than fifteen, and at least one-third must be residents of this state. Directors may be elected for 1, 2, 3, or 4 years, in classes. Stockholders of companies chartered by the governor are personally liable to the amount of stock respectively held by them for labor done in carrying on the operation of the company. But as such claims are preferred as against the company's assets, the risk to stockholders is small. A corporation may be dissolved by petition to the court of common pleas of the proper county with the consent of a majority of a meeting of the corporators, duly convened.

Foreign corporations must appoint an agent in the state, and file in the office of the secretary of state a statement showing the title and object of said corporation, the location of its office, and the name of its authorized agent in the state. Foreign corporations cannot, in general, hold real estate in this state, but if such company's business be the manufacture of iron, steel, glass, lumber, or wood, and some others, they may hold not exceeding 100 acres, if their capital do not exceed that allowed to domestic corporations.

**Rhode Island.**—All kinds of corporations may be created by the general assembly under special charter, but corporations for business purposes, except insurance and banking corporations, or corporations to carry on the business of trading in bonds or other evidences of indebtedness, or corporations with the power to exercise the right of eminent domain, may be created under general laws. Business



corporations may be chartered by three or more persons; other corporations by five or more. The articles of association shall set forth the usual statements, and be filed in the office of the secretary of state, with a certificate of the general treasurer that the statutory fee for the use of the state has been paid. The secretary of state will then issue to the corporation a certificate of incorporation under the seal of the state. Stockholders of manufacturing corporations are liable for all debts until all the capital stock has been paid in, and a certificate thereof filed in the town clerk's office. They are also liable in double the sum of their shares unless an annual statement of stock paid in, value of real estate and personal assets, and liabilities of the corporation be filed in the town clerk's office.

**South Carolina.**—No special charter may be granted except to such charitable, educational, penal, or reformatory corporations as may be under the control of the state, except by a two-thirds vote of each house of the general assembly or a concurrent resolution. There are special provisions for railroad, tramway, turnpike, and canal corporations. Two or more persons may be incorporators. A written declaration signed by the incorporators, with the usual statements, is to be filed with the secretary of state, who then issues a commission constituting the parties a board of incorporators. After 50 per cent. of the stock has been subscribed, and 20 per cent. of that subscribed has been paid in, and the state fee has been paid, on a certificate to that effect the secretary of state issues the charter, to be recorded in the proper county. Fifty per cent. of the capital stock must be subscribed, and of that 20 per cent. must be paid in, before the corporation may begin business. The charter fee is \$5 for capital stock of \$5,000 or less; \$10 for capital stock up to \$25,000; \$15 for capital stock up to \$50,000; \$20 for capital stock up to \$100,000; \$25 up to \$250,000; and \$1 additional for each \$10,000 above \$250,000. Cumulative voting is allowed.

**South Dakota.**—The legislature cannot grant private charters. Three or more persons, one-third of whom must be residents of this state, may be incorporators. The articles of incorporation must set forth the usual things, including the names of the directors or trustees, and must be filed with the secretary of state, and recorded with the register of deeds of the proper county. Directors are liable, personally, to the creditors and to the corporation to the full amount of the capital stock divided, withdrawn, paid out, or reduced, or debt contracted in excess of the subscribed capital stock, and they must not make dividends except from the surplus profits arising from the business. Stockholders of a corporation are individually and personally liable for the debts of the corporation to the extent of the amount that is unpaid upon the stock held by them. Before doing any business in this state, a foreign corporation must file with the secretary of state a duly

authenticated copy of its charter, and a duly authenticated copy of the appointment of a resident agent, which latter must be recorded also with the register of deeds of the proper county.

**Tennessee.**—Under the general laws any five persons over 21 years of age can obtain a charter for a corporation. Any seven or more persons over 21 years old can obtain a charter for a cooperative association. Charitable, religious, and literary corporations cannot be organized for individual profit. Corporations for educational purposes can be organized for individual profit under the act of March 29, 1881. A charter is obtained by the requisite number of persons subscribing their names to the particular form of charter and to a certificate that by virtue of the laws of the land they apply to the state of Tennessee for a charter of incorporation for the purposes and powers declared in the foregoing instrument. They must acknowledge the instrument before the clerk of the county court, who indorses the fact thereon, and it must then be registered, together with the certificate, in the register's office of the county where the main business of the corporation is to be transacted. The certificate of registration is to be attached to the instrument, and it, with all the certificates, is recorded in the office of the secretary of state, who attaches his certificate and the great seal of the state thereto. The certificate of the secretary of state and a *facsimile* of the great seal are then recorded in the register's office, where the charter was originally registered, and the incorporation is then completed. Stockholders are individually liable for wages of employes. Any foreign corporation desiring to do business in this state shall first file in the office of the secretary of state a copy of its charter, and cause an abstract of the same to be recorded in the register's office of each county where the corporation proposes to carry on its business.

**Texas.**—No private corporation may be created except by general laws. Three or more persons, two of whom at least must be citizens of the state, may be incorporators. The charter, subscribed and acknowledged by the above persons, is filed in the office of the secretary of state, and recorded at length. Foreign corporations must file a certified copy of their articles of incorporation with the secretary of state, and procure a permit to do business, paying therefor a specified fee, graduated according to the amount of the capital stock. Insurance companies are governed by special provisions.

**Utah.**—Not less than five persons, one of whom must be a resident of the state, may be incorporators. The articles of agreement must be signed by all the incorporators, and acknowledged by at least three, and must be accompanied by an affidavit of at least three of them, that they have commenced business, or that it is their *bona-fide* intention to commence the business stated. The agreement, together with the oath above stated, must be deposited with the clerk of the



county in which the general business is to be carried on, and a copy of the same must be filed with the secretary of state. At least 10 per cent. of the stock subscribed for by each shareholder, and of the capital stock of the corporation, must be paid in before filing the agreement. When such subscription is paid in property other than money, the fact must be stated in the articles of incorporation, also the kind of property, with a description thereof, which statement, except in the case of corporations organized for mining or irrigating purposes, shall be supplemented by the affidavits of three persons to the effect that they are acquainted with said property and that it is reasonably worth the amount in cash for which it was accepted by the corporation. There are special provisions for the formation and regulation of railroad and of benevolent corporations, and of telegraph, irrigation, insurance, loan, trust, and banking corporations. A foreign corporation doing business in this state is required to file with the secretary of state and with the county clerk of the county wherein the principal office in this state is situated, certified copies of its articles and certificate of incorporation and by-laws and shall also designate some person residing in the county in which its principal place of business in this state is situated upon whom process may be served, which designation shall be filed with the county clerk of said county and the secretary of state; service of summons upon such agent shall be deemed service upon the corporation.

**Vermont.**—Corporations may be created by special charter. They may be also formed by voluntary association for any purpose not repugnant to public policy, except telegraph, telephone, banking, insurance, railroad, and express companies. Five or more persons may be incorporators. For incorporation by such voluntary association, application must be made to the secretary of state. One-fourth of the capital must be paid in before contracting any debts. The stockholders are individually liable to creditors for debts of the corporation to an amount equal to the amount unpaid on the stock held by them, respectively.

**Virginia.**—Charters are granted by a corporation commission, consisting of three persons appointed by the governor for any legal purpose. Foreign corporations doing business in the state (except insurance companies) are required to have an office here at which claims against it shall be settled, and to file for record with the clerk of the circuit or corporation court wherein such office is located, together with an authenticated copy of its charter, a power of attorney appointing a resident its agent upon whom process may be served and who is authorized to enter an appearance for it.

**Washington.**—Formation of corporations by special act is prohibited. Under the general incorporation act, any two or more persons desirous of forming a corporation for manufacturing, mining,

milling, wharfing and docking, mechanical, banking, mercantile, improvement, and building purposes, or for the building, equipping, and managing of water flumes for the transportation of wood and lumber, or for the purpose of building, equipping, and running of railroads, water companies, or constructing canals or irrigating canals, or engaging in any other species of trade or business, may make and subscribe written articles of incorporation in triplicate, and acknowledge the same before any officer authorized to take acknowledgment of deeds, and file one of such articles in the office of the secretary of state, another in the office of the county auditor of the county in which the principal place of business of the corporation is intended to be located, and retain the third in the possession of the corporation. The corporate existence is limited to 50 years. The stock must be all subscribed before commencing business. The corporate powers of the corporation shall be exercised by a board of not less than two trustees, who shall be stockholders in the company, and at least one of whom shall be a resident of the state of Washington, and a majority of them citizens of the United States. A corporation may dissolve and disincorporate itself by a vote of two-thirds of its stockholders and by proceedings in the superior court, as provided by statute; it must appear to the court that all claims against the corporation are discharged. In order to be qualified to do business in this state every foreign corporation shall cause to be filed and recorded in the office of the secretary of state a certified copy of its charter or articles of incorporation; it shall also appoint, in writing, an agent who shall reside at the place in the state where the principal business of the corporation is to be carried on, and who shall be authorized to accept service of process in any action or suit pertaining to the property, business, or transactions of such corporation within this state, in which such corporation may be a party. Such appointment must be filed for record with the secretary of state.

**West Virginia.**—Corporations may be created by special acts. There must be five or more incorporators. The agreement stating the usual facts must be signed and acknowledged by the incorporators; and the affidavits of at least two of the persons named shall be annexed, to the effect that the amount therein stated to have been paid on the capital has been in good faith paid in for the purposes and business of the intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation. Upon the filing of such an agreement with the secretary of state, he is authorized to issue a charter incorporating such company accordingly. Corporations must organize and begin business within 1 year from the date of the charter. Ten per cent. at least of the stock subscribed is required to be paid in before the charter is granted. Cumulative voting is allowed. Foreign



corporations can be authorized by the secretary of state to do business and hold property in this state, but to obtain such authority they must file a copy of their articles of association as well as of the law and authority under which they are incorporated; thereupon a certificate of authority can be issued by the secretary of state, which, with a copy of the charter, must be recorded in the same county in which the company does business.

**Wisconsin.**—Corporations are formed under general laws. The general requirements are that three or more residents must execute written articles specifying the purpose and business of the proposed corporation, its name, location, amount of capital stock, number of shares, officers, and directors. Copies of the articles must be filed with the register of deeds in the county where the corporation is located, and with the secretary of state. The stockholders are specially liable for the debts of a corporation until 50 per cent. of its capital stock has been subscribed and 20 per cent. paid in. The stockholders of corporations (other than banking) organized under state laws are under no personal liability beyond the obligation to pay in full for their stock, except as to wages due to employes (not those of railroad corporations) for 6 months' service or less, for which they are liable to an amount equal to their shares of stock. The statutory requirements are strict as to non-resident insurance and similar corporations doing business in Wisconsin, and such companies can do business here only under special license after the corporation is legally organized.

**Wyoming.**—Three or more persons may be incorporators under the general laws. The certificate must be executed in duplicate, containing the usual statements, one being filed in the office of the county clerk of the proper county, and the other in the office of the secretary of state. Incorporation fees to be paid to the secretary of state are \$5 for \$5,000 or less of capital; \$10 for not over \$100,000; and 5 cents for each additional \$1,000 over \$100,000. Stockholders are individually liable to the creditors of the company to the amount of unpaid assessments on stock held by them respectively. A foreign corporation, within 30 days after commencing to do business in this state, must file with the register of deeds of the proper county a copy of its certificate of incorporation, and of the incorporation law under which it was chartered.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Companies may be incorporated by special act of the legislature, or, except railroad and insurance companies, under the general Companies Act, 1897. In the latter case five or more persons execute and file a memorandum of association. Extra-provincial companies incorporated in Great Britain or Ireland or in

any of the provinces of Canada may be licensed to do business in this province; extraprovincial companies incorporated elsewhere must be registered in this province. The government fees for incorporation, license, or registration are the same, and vary according to the amount of capital.

**Manitoba.**—Corporations are created by act of parliament, or under the general acts relating to the incorporation of joint-stock companies by letters patent, or under the Manitoba Joint-Stock Companies Act. Foreign corporations must be licensed or registered.

**New Brunswick.**—Companies may be incorporated either by provincial or dominion acts, this depending upon their objects. Five or more persons may obtain letters patent for incorporation for ordinary business purposes by petition to the lieutenant-governor on payment of a fee regulated by the amount of the capital stock.

**Nova Scotia.**—Corporations are formed by act of parliament, special charter, or under the Joint-Stock Companies Act.

**Ontario.**—Companies are chartered by special charter, act of parliament, or under the Joint-Stock Companies Act. Stockholders are liable to the full amount of the stock subscribed. There is also a special liability for wages of servants and employes. All foreign corporations desiring to do business in the province must take out a license permitting them to do so.

**Quebec.**—Companies are created by act of parliament, special charter, or under the general act relating to the incorporation of joint-stock companies. There is a special liability of stockholders for debts due to the company's servants.

## GREAT BRITAIN AND IRELAND

The incorporation and regulation of companies is under the Companies Act, 1862, and the subsequent companies acts down to and including 1900.

**Classes of Companies.**—Two distinct classes of companies are provided for by the act of 1862—those in which the liability of the members is limited and those in which the liability is unlimited, limited companies being subdivided into companies limited by shares and companies limited by guarantee. The Companies Act of 1862 provides for companies with members whose liability is limited and the directors of which have no limited liability.

**Number of Members.**—No company authorized by partnership consisting of more than ten persons may be formed for any of the purposes unless registered under the act of 1862 and the subsequent acts.



nor any such association, consisting of more than twenty persons, for any other purpose for profit, unless so registered or incorporated. Seven or more persons may form a company. If any company carry on business with less than seven members for a period of 6 months, every member cognizant of this fact shall be severally liable for all debts contracted during such time.

**Memorandum of Association.**—The memorandum of association of a company *limited by shares* shall contain the following: The name of the proposed company, with the addition of the word *Limited* as the last word; the part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is proposed to be situated; the objects for which the proposed company is to be established; a declaration that the liability of the members is limited; the amount of capital with which the company proposes to be registered divided into shares of a certain-fixed amount. Each subscriber must take at least one share, and write opposite his name the number of shares he takes. The memorandum of a company *limited by guarantee* contains the first three clauses and a declaration that each member undertakes to contribute to the assets of the company, in the event of the same being wound up while he is a member, or within 1 year thereafter, for the payment of the liabilities of the company, such amount as may be required, not exceeding a specified amount. The memorandum of an *unlimited* company contains the first three clauses, without, of course, the use of *Limited* in its name. The memorandum bears a stamp as if a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at least.

**Articles of Association.**—The memorandum may, in the case of a company *limited by shares*, and shall, in the case of a company *limited by guarantee*, or *unlimited*, be accompanied when registered by articles of association, signed by the subscribers of the memorandum prescribing such regulations for the company as may be deemed expedient. The subscribers may adopt all or any of the provisions contained in the table marked A in the first schedule (Companies Act, 1862). This is to be stamped and signed as the memorandum.

**Certificate of Incorporation.**—Besides the memorandum and articles of association, there must be lodged with the registrar of joint-stock companies, where there has been no invitation issued to the public to subscribe for shares, a statutory declaration made by a solicitor of the high court engaged in the formation of the company or by a director or the secretary that all requirements of the act have been fulfilled; a statement of the nominal amount to be raised by shares; an application for a certificate of incorporation. Where the company issues an invitation to the public to subscribe for shares, in

addition to the above there must also be filed a list of the persons who have consented to be directors of the company; a consent in writing of each of such persons to act as such directors; and, if any such director have not signed the memorandum for the amount of his qualification, a contract by him in writing to take from the company and pay for his qualification shares. On the above requirements being satisfied, the registrar, upon the payment of the proper fees, will issue the *certificate of incorporation*, and the incorporation takes effect from the date mentioned therein.

**Commencing Business and Allotment of Shares.**—A company before commencing business must give the registrar notice of the situation of its registered office. The minimum subscription, fixed by the memorandum or articles of association and named in the prospectus, must be subscribed, and, if no minimum subscription be fixed, the whole amount of the share capital offered for subscription must be subscribed, and at least 5 per cent. of the nominal amount of each share must be paid in, before any allotment of shares can be made, or business begun. Having duly made the allotment of shares, the company must, within 1 month, file with the registrar a return stating the names and addresses of the allottees, the number of shares allotted, the amount paid on each share, and certain other matters. A register of members must be kept at the registered office of the company, open at all times to the inspection of members gratis, and to other persons on payment of 1 shilling.

**Directors.**—The number, election, and qualification of directors are matters determined by the articles of association. No person may be appointed a director by the articles until he has signed and filed with the registrar his consent as before mentioned and contracted to take and pay for the number of shares which are fixed as the number necessary to qualify one to be a director. The directors appointed by the articles hold office until the election of others at the statutory meeting. Their powers are determined by the memorandum and articles of association.

**Meetings.**—The articles of association usually make some regulation in reference to holding general meetings. A general meeting of the members of every company *limited by shares* shall be held between 1 and 3 months from the date when it is entitled to commence business. This is called the **statutory meeting**. At least 7 days before this meeting a report of the condition of the company must be sent to each member. A general meeting must be held at least once a year. The directors must convene an extraordinary general meeting on the requisition of the holders of not less than one-tenth of the issued capital upon which all calls have been paid. A special resolution altering the articles of association may be passed at any general meeting by three-fourths of the vote present, personally or by proxy,



but will require confirmation by a simple majority of votes at a meeting to be held not less than 14 days nor more than 1 month afterwards. The articles of association should provide as to the number of votes to which members are entitled in respect of shares held by them; but in default of any regulations as to voting, every member has 1 vote only.

**Annual Reports.**—An annual summary shall be made by every company *limited by shares*, and lodged with the registrar of companies, containing the names and addresses of the directors, a list of all the members with the number of shares held by each, a statement of the amount of the capital, and the number of shares into which it is divided, the number of shares taken from the commencement of the company to date, the amount of calls made on each share, the total amount of calls received and calls unpaid, the total amount of shares forfeited, the names of persons who have ceased to be members since the last list was made, and the total amount of the debts due from the company in respect of all mortgages and charges which require registration.

**Winding Up.**—Detailed provisions are made in the Companies Act, 1862, Part IV, and the Companies (Winding up) Act, 1890, for the winding up of companies, either by the court, or voluntary, or subject to the supervision of the court.

## COURTS

The court of last resort in most of the states and territories of the United States is the supreme court, and has appellate jurisdiction and supervisory control over the lower courts, and, in most instances, original jurisdiction in cases of *habeas corpus*, *mandamus*, *quo warranto*, and other remedial writs, as in Alabama, Arizona, Arkansas, California (see below, under state title), Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky (see below, under state title), Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming. Elsewhere the highest court is known by another name, as in New York, where the court of last resort is the *court of appeals*, and in New Jersey, where the court of last resort is the *court of errors and appeals*; neither of the last-named courts have original jurisdiction. In Connecticut, the *supreme court of errors* is the court of last resort. In Maine and Massachusetts, the court of last resort is the *supreme judicial court*. In Virginia and West Virginia, the court of last resort is the *supreme court of appeals*. In Maryland, the court of last resort is the *court of appeals*. In Indian territory, appeals are taken from United States courts to the United States court of appeals. In many states, there is another appellate court with more limited jurisdiction, intermediate between the supreme court and the courts of original jurisdiction.

The courts of general original jurisdiction of civil actions at common law and, in some jurisdictions of equity, are usually styled *district courts*, *circuit courts*, or *courts of common pleas*. Their powers differ considerably in the different states. Separate *chancery courts* exist in only a few of the states. The court having jurisdiction over all matters as to the probate of wills, administration of decedents' estates, etc., is generally a separate court, called the *probate court*, as in Alabama, Arizona, Arkansas, Connecticut, Idaho, Illinois, Kansas, Maine, Massachusetts, Michigan, Missouri, New Hampshire, New Mexico, North Dakota, Rhode Island, South Carolina, Tennessee, and Vermont. In other states, this court is called the *orphans' court*, or the *surrogates' court*, and in a few states probate jurisdiction is conferred upon the district, county, or other courts.

Justices of the peace have jurisdiction in civil actions where the sum involved, exclusive of interest and costs, is limited, as \$1,000 in



Tennessee (see below, under state title); \$300 in Arizona, California, Colorado, District of Columbia, Idaho, Kansas, Missouri (in certain cities or counties, see below, under state title); Montana, Nevada, Pennsylvania (except in Philadelphia, see below, under state title), Utah, and West Virginia; \$250 in Oregon; \$200 in Delaware, Illinois, Indiana (confession of judgment for sums not exceeding \$300), Mississippi, Nebraska, New Jersey, New York (confession of judgment for sums up to \$500), North Carolina (see below, under state title), North Dakota, Texas, Wisconsin, and Wyoming; \$100 in Alabama, Arkansas, Connecticut, Florida, Georgia, Iowa (by consent of the parties up to \$300), Kentucky, Louisiana (see below, under state title), Maine (no jurisdiction, see below, under state title), Maryland, Massachusetts, Michigan, Minnesota, New Hampshire (see below, under state title), New Mexico, Ohio, Oklahoma, Rhode Island (see below, under state title), South Carolina (see below, under state title), South Dakota, Vermont, Virginia, and Washington. Their jurisdiction in matters of tort is usually more limited, and they generally have no jurisdiction in cases where the title to real estate is involved.

**Alabama.**—Chancery courts have full equity powers, and exclusive jurisdiction thereof except as hereinafter stated. Regular terms are held twice a year in nearly every county. Circuit courts have original jurisdiction as to all felonies and misdemeanors, and all actions and suits at law when the matter or sum in controversy exceeds \$50, and in all cases of libel, slander, assault and battery, and ejectment, without regard to the value of the matter sued for. They also have appellate jurisdiction of all civil actions cognizable before a justice, and a general superintendence over all inferior courts. The state is divided into thirteen circuits. City courts have concurrent jurisdiction with the circuit courts in all civil and criminal cases, except cases to try titles to land. The city courts of Montgomery, Jefferson, Dallas, Talladega, Etowah, Jackson, and Calhoun counties, and the Tuscaloosa county court, have also chancery jurisdiction concurrent with the chancery courts. Probate courts have the usual jurisdiction, and also charge of the recording of deeds, mortgages, liens, and the like. In each county, there is held once a month a county court, of which the judge of probate is *ex officio* judge, and has jurisdiction of all misdemeanors.

**Alaska.**—The territory ceded to the United States by Russia by the treaty of March 30, 1867, and known as Alaska, constitutes a civil and judicial district. The judicial power in the district is vested in a district court, in commissioners exercising the powers of probate courts, and in commissioners as *ex officio* justices of the peace. There is established a district court for the district, which is a court of general jurisdiction in civil, criminal, equity, and admiralty causes. Three district judges are appointed, who during the term of their office, reside

in the division of the district to which they are respectively assigned by the president. There are three divisions—number one holding two terms each year at Juneau and Skagway, number two holding at least one term each year at St. Michael's, and number three holding at least one term each year at Eagle City. Each judge may hold special terms. Justice courts have jurisdiction, but not exclusive, in certain actions where the amount claimed does not exceed \$1,000.

**Arizona.**—There are four district courts, whose appellate jurisdiction extends to cases from the probate courts, or justices of the peace, and whose original jurisdiction covers all cases at law or equity where the amount involved exceeds \$100, exclusive of interest, and all cases involving the title to, or the possession of, real estate.

**Arkansas.**—Circuit courts exercise common law and chancery jurisdiction, but in some counties separate courts of chancery have been established. Circuit courts with one judge have original jurisdiction over all civil and criminal cases, the exclusive jurisdiction of which may not be vested in some other court, and appellate jurisdiction and superintending control over county courts, probate courts, courts of common pleas, corporation courts, and justices of the peace.

**California.**—The superior court has jurisdiction of two kinds, original and appellate. The superior court has original jurisdiction in all cases in equity; in all cases in which the subject of litigation is not capable of pecuniary estimation; in all cases at law which involve the title or the possession of real property, or the legality of any tax, and the like, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to \$300; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and annulment of marriage; and of such special cases and proceedings as are not otherwise provided for. They also have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto* and of *habeas corpus*, on petition by, or on behalf of, any person in actual custody in their respective counties. The state has three appellate districts in each of which there is a district court of appeal. Justices' courts have civil jurisdiction in cases of contract, and of tort, as for fine or penalty, where the amount involved is less than \$300, and concurrent jurisdiction with the superior courts within their respective townships; in actions of forcible entry and detainer where the monthly rental of the property is \$25, and the damage claimed does not exceed \$200.

**Colorado.**—The court of appeals has final jurisdiction in appealed cases from the district and county courts involving less than \$2,500, where the controversy does not involve a freehold, or a franchise, or the construction of a statute. Other cases are appealed to the supreme court. District courts have general civil jurisdiction, and appellate



jurisdiction of cases from the county courts. There are one or more in each county. County courts (one in each county) have jurisdiction over the administration of estates, and other matters involving less than \$2,000, and appellate jurisdiction of cases from justices.

**Connecticut.**—The supreme court of errors, consisting of a chief justice and four associate judges, is the court of last resort, and has jurisdiction of appeals from errors of law of superior, district, and city courts, and courts of common pleas, and will review findings of facts made by judges of said lower courts. The superior court is held in each county, and has jurisdiction of all matters in law and equity wherein the demand exceeds \$500, and exclusive jurisdiction of divorces, probate appeals, and criminal proceedings excepting for petty offenses. The court of common pleas has jurisdiction of law and equity where the demand exceeds \$100 and is not over \$500, and also has concurrent jurisdiction with the superior court of demands between \$500 and \$1,000. It is established only in Hartford, New Haven, New London, Fairfield, and Litchfield counties. City courts of limited and local jurisdictions are held in the large cities.

**Delaware.**—The superior court, holding sessions in the various counties, has general civil jurisdiction of cases at law. Appeal lies to the supreme court. The court of chancery and orphans' court, also holding sessions in the various counties, has equity and probate jurisdiction, with appeal to the supreme court.

**District of Columbia.**—The courts are a district supreme court, having like jurisdiction and powers as the United States circuit and district courts; a court of appeals, to which appeals and writs of error lie from the district supreme court. From the court of appeals, appeals and writs of error lie to the United States supreme court in suits involving \$5,000 and more. Justices of the peace have jurisdiction in civil causes, including attachment and replevin, not involving more than \$300 in amount, but not in causes where the title to real estate is in issue, actions for malicious prosecution, actions against justices of the peace or other officers for misconduct in office, actions for slander or libel, and actions for damages for breaches of promise to marry.

**Florida.**—Circuit courts, holding two terms a year in each county, have original jurisdiction in all equity cases, also in all cases at law not cognizable by the inferior courts. County courts have jurisdiction of common law cases not exceeding \$500. County courts, at all times open for probate business, have full probate powers. The judges of county courts are *ex-officio* justices of the peace. In addition, the governor appoints as many justices of the peace as are necessary.

**Georgia.**—Superior courts, with sessions at least twice a year in each county, have general original jurisdiction in civil cases. City

courts are established in the principal cities, and have unlimited jurisdiction except in matters of divorce, titles to land, or equitable relief; appeal lies to the supreme court. In counties where there are no city courts, as a general rule, a county court exists, with jurisdiction of cases not over \$500, which cases may be removed by *certiorari* to the superior court. Courts of ordinary have probate jurisdiction; appeal lies to the superior court.

**Idaho.**—District courts have original jurisdiction of all criminal cases and of civil cases, and appellate jurisdiction of cases from justices' and the probate courts. The probate court also has jurisdiction in actions up to \$500, exclusive of interest and costs, and has the criminal jurisdiction of magistrates.

**Illinois.**—The appellate court has appellate jurisdiction of cases from county, circuit, and superior courts. In cases involving over \$1,000, there may be a further appeal to the supreme court, and in cases involving less than \$1,000 if, in the opinion of a majority of the judges, questions of law of importance be involved. Circuit courts of the several counties have original jurisdiction in all cases of law and equity. The superior court of Cook county has concurrent jurisdiction with the circuit court. County courts have jurisdiction in proceedings for the collection of taxes and assessments, assignments for the benefit of creditors, and applications of insolvent debtors for release from arrest or imprisonment, and concurrent jurisdiction with the circuit courts; and also in the classes of cases cognizable before justices of the peace when the amount in controversy does not exceed \$1,000, and in all criminal cases where the punishment is not imprisonment in the penitentiary or death, and jurisdiction in probate matters in counties of less than 70,000 population. Probate courts are established in counties having a population of 70,000 or more, which have original jurisdiction in all matters of probate.

**Indian Territory.**—United States courts in the Indian Territory have original jurisdiction in all civil cases wherein the defendant resides or may be found in the district, where the amount in controversy exceeds \$100. United States commissioners hold their courts monthly, and have exclusive jurisdiction in all matters of contract where the amount in controversy does not exceed \$100, and concurrent jurisdiction up to \$300. The United States court exercises probate jurisdiction.

**Indiana.**—The appellate court is inferior to the supreme court, and has exclusive appellate jurisdiction in actions for the recovery of money where the amount in controversy does not exceed \$6,000, cases of misdemeanor, cases for the recovery of specific personal property, appeals from orders of allowance or disallowance of claims against decedents' estates, cases involving exceptions to reports of administrators,



executors, or guardians, cases wherein orders are made removing or refusing to remove such officers, all bastardy cases, and certain actions originating before justices of the peace, and between landlords and tenants, and cases involving the title to real estate. Circuit courts have general jurisdiction in civil cases, and also in criminal cases in those counties where there are no criminal courts. They have exclusive jurisdiction of probate matters, guardianships, certain trusts, and in slander. Superior courts in the counties where they have been established (Allen, Marion, Tippecanoe, Vanderburgh, Howard, Grant, Lake, Porter, Madison, Laporte, and Vigo) have concurrent jurisdiction with the circuit courts, except where the latter have exclusive jurisdiction, and in criminal cases. Criminal circuit courts exist in Marion, Allen, and Vigo counties, and have general criminal jurisdiction therein.

**Iowa.**—District courts have general civil jurisdiction, and also probate jurisdiction. Superior courts may be established in any city in this state containing 7,000 inhabitants and shall have jurisdiction in all civil matters concurrent with the district court, except in probate matters and actions for divorce, alimony, and separate maintenance. They shall have exclusive original jurisdiction to try and determine all actions, civil and criminal, for the violation of city ordinances, and all jurisdiction conferred on police courts; and concurrent jurisdiction with justices of the peace; and writs of error and appeals may be taken from justices' courts in the township in which the court is held, and by the consent of parties from any other township in the county. Police courts are established in cities of the first class, with the jurisdiction of justices of the peace, and are deemed courts of record and have seals.

**Kansas.**—The district court has general original jurisdiction in law and equity. A probate court in each county has original jurisdiction in matters relating to wills and the settlement of estates of decedents, minors, and persons of unsound mind. Appeals may be taken from the judgments of justices of the peace, and from the probate courts, to the district court. Writs of error are allowed from the district courts to the supreme court.

**Kentucky.**—The supreme court, called the court of appeals, is the highest court in the state, and has appellate jurisdiction over cases from the circuit courts. Circuit courts have general original jurisdiction in law and equity. Quarterly courts have jurisdiction concurrent with justices of the peace or police courts of all actions for the recovery of money or personal property where the value in controversy is \$100 or under, exclusive of interest and costs, and concurrent jurisdiction with circuit courts of all actions where the value in controversy is over \$50, and not more than \$200, exclusive of interest and costs. County courts have probate jurisdiction.

**Louisiana.**—On all amounts up to \$2,000 inclusive, an appeal may be taken to the court of appeals from the city and the district courts, and on all amounts above that, to the supreme court. An appeal lies on both the law and the facts. District courts outside of New Orleans have original jurisdiction in all civil cases where the amount in controversy exceeds \$50, unlimited jurisdiction in all probate matters, and appellate jurisdiction over cases from justices of the peace. In New Orleans, the civil district court has general civil jurisdiction in all cases exceeding \$100, and unlimited probate jurisdiction. In Orleans parish, there are city courts having exclusive civil jurisdiction up to \$100.

**Maine.**—The supreme judicial court, the highest court in the state, holds two or three terms a year in each county, and has unlimited jurisdiction except as specified hereinafter; full jurisdiction in equity; appellate jurisdiction in banc on questions of law from the trial terms and superior courts. The superior court in Cumberland county, except as to cases in equity, divorce, real actions, and extraordinary legal remedies, has exclusive jurisdiction up to \$500, and above \$500 jurisdiction concurrent with the supreme court; in Kennebec county it has exclusive jurisdiction with certain exceptions up to \$500, and concurrent jurisdiction in *habeas corpus* and divorce. Justices of the peace have no civil or criminal jurisdiction. Their jurisdiction is conferred upon the trial justices and the municipal courts.

**Maryland.**—The court of appeals is the court of last resort of the state. Circuit courts, in the counties, have jurisdiction at common law in cases involving more than \$50, and in equity more than \$20. The circuit court and circuit court No. 2 of Baltimore city have exclusive equity jurisdiction in the city. The superior court, the court of common pleas, and the Baltimore city court have concurrent common-law jurisdiction in cases involving more than \$100. Orphans' courts have probate jurisdiction.

**Massachusetts.**—The supreme judicial court is the highest court of the state and has appellate jurisdiction from the superior court, and full equity jurisdiction. It has original and concurrent jurisdiction, with the superior court, of civil actions, except tort, when the damages or property claimed exceed, in Suffolk county, \$4,000, and in the other counties \$1,000. The superior court has exclusive original jurisdiction of capital crimes, claims against the commonwealth, divorce and nullity of marriage, partition, foreclosure of mortgages, and actions of tort, except where the inferior courts have concurrent jurisdiction. It has jurisdiction of all civil actions where the debt or damages exceed \$100, except replevin for beasts distrained or impounded, and for damages done by them, and summary process to recover land. It has general and full equity jurisdiction; it has



jurisdiction of all crimes and misdemeanors. The municipal, police, and district courts in the various counties have jurisdiction in civil actions, in Boston to the extent of \$2,000, and in other places original jurisdiction to the extent of \$1,000, and original and concurrent jurisdiction with the superior court to the extent of \$1,000, also of all lesser offenses; but in every case an appeal lies to the superior court.

**Michigan.**—Circuit courts have general original jurisdiction at law and equity, and appellate jurisdiction from the inferior courts, including the probate courts, and also original jurisdiction to issue *mandamus*, *quo warranto* and other remedial writs. The state is divided into thirty-eight judicial circuits. In each county is a probate court with jurisdiction in the settlement of estates. Appeals lie directly from the circuit courts to the supreme court. Justices of the peace have exclusive jurisdiction up to \$100 in cases founded on contract, and concurrent jurisdiction up to \$300, or to \$500 in Wayne county; and in tort up to \$100.

**Minnesota.**—District courts are courts of original jurisdiction for all classes of cases in law and equity. Municipal courts are established in various cities under special acts, and their jurisdiction is not uniform. Generally it extends to cases not exceeding \$500, excepting cases involving real estate. Probate courts have jurisdiction of estates of deceased persons, minors, and insane persons.

**Mississippi.**—Chancery courts have the usual equity powers and jurisdiction over probate matters. The state is divided into chancery and circuit districts. Appeal lies to the supreme court. Circuit courts have jurisdiction of all cases at law above \$200, and of all criminal cases.

**Missouri.**—There are two courts of appeal, one sitting at St. Louis and the other at Kansas City, and their respective territorial jurisdiction extends practically over the eastern and western half of the state. Appeals lie from the circuit court to the court of appeals, in all suits, except those where the amount in dispute, exclusive of costs, exceeds \$4,500, and in cases involving the construction of the state or the federal constitution, treaties, revenue laws, title to office under the state, title to real estate, where a county or other political subdivision of the state is a party, and all cases of felony. In such cases the appeal is taken directly from the trial to the supreme court. In all cases appealed to either of the courts of appeal their decision is final, unless one of the judges shall deem it contrary to a previous decision of the court of appeals or of the supreme court, in which event the cause must be certified to the supreme court. Circuit courts, in each county, are courts of general original jurisdiction in law and equity in cases exceeding \$50. Justices of the peace have jurisdiction up to \$250, and in counties of 50,000 inhabitants or over, up to \$300, in St. Louis, up to \$500, and in replevin, up to \$350.

**Montana.**—District courts have general original jurisdiction of cases over \$50, also of divorce, insolvency, probate matters, and of all actions and proceedings that are not otherwise provided for.

**Nebraska.**—District courts have general jurisdiction in law and equity, and appellate jurisdiction of cases from the county courts and justices of the peace. County courts are probate courts, and have special jurisdiction in civil matters to the extent of \$1,000.

**Nevada.**—District courts have general jurisdiction of all equity cases, and cases at law over \$300, and over all probate matters.

**New Hampshire.**—The supreme court is the highest court of the state, and has original jurisdiction over all cases at law or equity, and appellate jurisdiction of cases from police courts or justices of the peace. The superior court has jurisdiction of all actions, but limits costs where no more than \$13.33 debt of damage is claimed, in which case a justice of the peace has jurisdiction, except in towns where police courts are established. The jurisdictions of police courts extend to all actions wherein no more than \$100 is claimed as debt or damage (and title to real estate is not drawn in question), and the defendant lives within the county and one of the parties in the town where the court is held.

**New Jersey.**—The court of errors and appeals has no original jurisdiction, but hears appeals from the court of chancery and prerogative court, and writs of errors from the supreme and circuit courts. The court of chancery has exclusive equity jurisdiction. The supreme court has general original jurisdiction in all cases at law, and of *certiorari* from the courts of common pleas and district courts. Circuit courts and courts of common pleas, holding three terms a year in each county, have jurisdiction in all civil cases, except that there is no jurisdiction as to land titles in the common pleas. District courts, coextensive with the counties, have jurisdiction in amounts of \$300 and under.

**New Mexico.**—District courts have unlimited original common law and chancery jurisdiction, separately exercised, and appellate jurisdiction in all cases determined by justices of the peace and the probate courts.

**New York.**—The court of appeals has appellate jurisdiction only, and is the court of last resort. The supreme court has jurisdiction of all civil actions both at law and in equity. From all courts, except justices of the peace and the district courts of New York city, the appeal lies to the proper appellate division of the supreme court, and from the appellate division to the court of appeals. County courts have a limited jurisdiction. In ordinary actions the defendants must be residents of the county and the complaint demand judgment for a sum not exceeding \$2,000. They have jurisdiction of most actions



relating to real property provided it be situated in the county; also of general assignments for the benefit of creditors, in lunacy proceedings, and the like; in proceedings relating to the sale of real property, within the county, of a domestic religious corporation, and of an action to recover a judgment for the money remaining due upon a judgment rendered in the same court. The surrogate's court has jurisdiction to admit wills to probate, grant letters testamentary and of administration, appoint guardians, and, generally, to take cognizance of matters pertaining to the estates of decedents. District courts of the city of New York have jurisdiction in matters of contract where the amount involved does not exceed \$250.

**North Carolina.**—The supreme court is the appellate court of last resort. It has jurisdiction to try all issues and questions of fact arising in equity cases where the evidence is before it, and the issues have not been tried by jury. It has original jurisdiction to hear claims against the state, but its judgment is merely recommendatory. Superior courts have exclusive original jurisdiction of all civil actions whereof original jurisdiction is not given to some other court, and they have appellate jurisdiction of all cases determined by a superior court clerk or a justice of the peace. They sit twice a year in every county, and in some of the counties oftener. Clerks of the superior court have jurisdiction of the probate of deeds, granting of letters testamentary and of administration, appointment and removal of guardians, apprenticing orphans, auditing of administration, guardian, receivers', and trustees' accounts, the appointment and removal of trustees, making orders in claim and delivery, arrest and bail, attachment, supplementary proceedings, partition of lands and sale of same for division, sale of land to make assets for the payment of the debts of a decedent, and other special proceedings. But when issues of law or of fact are raised by the pleadings, they must certify the same to the superior court for trial. Besides the jurisdiction of justices of the peace of civil actions (except as to real-estate titles) where the demand does not exceed \$200, they also have jurisdiction concurrent with the superior courts of civil actions not founded on contract, wherein the value of property in controversy does not exceed \$50.

**North Dakota.**—District courts, holding two terms each year in all organized counties, have exclusive jurisdiction in equity and at common law above \$200, and where the title or boundary of real property is in question.

**Ohio.**—Circuit courts have the same original jurisdiction as the supreme court, and appellate jurisdiction from the courts of common pleas. The common pleas court has original jurisdiction in all cases at law or in equity over \$100, and where the title to real estate is involved. The superior court of Cincinnati has concurrent jurisdiction

with the common pleas court of Hamilton county in all civil actions arising within the corporate limits of Cincinnati, except in cases of divorce and alimony. The common pleas courts, and all courts superior thereto, have jurisdiction in all cases brought to them on error from the next inferior court, as provided for by law. Probate courts have the usual probate jurisdiction, have charge of the estates of lunatics, insolvent debtors, and the like, and have concurrent jurisdiction with the common pleas court in appropriation proceedings. Justices of the peace have exclusive original jurisdiction in amounts less than \$100, and concurrent jurisdiction with the common pleas court in amounts from \$100 to \$300, except in cases involving title to real estate.

**Oklahoma.**—District courts have general original jurisdiction, and appellate jurisdiction of cases from justices' courts, police courts, and boards of county commissioners. Probate courts have general probate jurisdiction, and jurisdiction in civil actions on money demands and for the recovery of personal property not exceeding \$1,000. Appeals lie to the supreme court.

**Oregon.**—Circuit courts have general civil and criminal jurisdiction, and appellate jurisdiction in all matters appealed from justices of the peace and county courts. County courts have exclusive probate jurisdiction; also, jurisdiction of civil actions up to \$500.

**Pennsylvania.**—The supreme court is the court of last resort. It has original jurisdiction in cases of injunction when a corporation is a party defendant, of *habeas corpus*, of *mandamus* to courts of inferior jurisdiction, and of *quo warranto* as to all officers of the commonwealth whose jurisdiction extends over the state. The superior court has appellate jurisdiction of cases from the common pleas and orphans' courts where the amount involved does not exceed \$1,500, and in all criminal cases except felonious homicide. All other cases are appealed to the supreme court: Where the jurisdiction of the superior court is at issue; where the construction or application of the constitution of the state or of the United States, or of any treaty or statute of the United States, is involved; or where an appeal is specially allowed by the superior court, or by any one justice of the supreme court. It has no original jurisdiction except to issue writs of *habeas corpus*. Common pleas courts have original jurisdiction in all civil actions at law and in equity, and appellate jurisdiction in all suits brought before magistrates, aldermen, and justices of the peace. The common pleas judges are *ex officio* judges of the courts of oyer and terminer, and quarter sessions. Orphans' courts have general and exclusive probate jurisdiction. Magistrates' courts in Philadelphia have jurisdiction in matters of contract up to \$100; in other cities, aldermen, and, in other places, justices of the peace, have jurisdiction concurrent with courts of common pleas of all actions arising from contract, and of all actions



of trespass and of trover and conversion, wherein the sum demanded does not exceed \$300, except cases involving the title to land, or actions upon a promise to marry.

**Rhode Island.**—The courts are a supreme court, a superior court, and twelve district courts. The supreme court holds a regular session each year at Providence, from the first Monday in October to the second Monday in July, with a recess from the third Monday in February to the first Monday in March, but sessions may be held at other places in the state whenever it is deemed advisable. The supreme court has general supervision of all inferior courts and may issue extraordinary and prerogative writs for the furtherance of justice and the due administration of law, and it has jurisdiction of petitions for trials and new trials, bills of exceptions, and appeals. The superior court holds its sessions every year at the times and places following, to wit: At South Kingston, within and for the county of Washington, on the third Monday of October, December, March, and June; at Newport, within and for the county of Newport, on the first Monday of October, December, March, and June; at East Greenwich, within and for the county of Kent, on the fourth Monday of September, December, February, and May; and at Providence, for the counties of Providence and Bristol, on the third Monday of September, and continuously to the second Monday of July of the following year. The superior court has original jurisdiction of suits and proceedings in equity, petitions for divorce, all actions at law where titles to real estate is in issue, except actions for possession of tenements let or held at will or by sufferance, of actions at law in which the debt or damages laid in the writ shall exceed \$500, of probate appealed cases, and, concurrently with the supreme court, of writ of *habeas corpus*, *mandamus*, *quo warranto*, and cases upon claims of jury trials from district courts. Appeals from any order, determination, or decree of a probate court may be taken to the superior court. Appeal by the aggrieved party must be claimed within 40 days from the decision of said probate court. Appeals in criminal cases may be taken from the sentence of any district court to the superior court, and must be claimed within 5 days after the passing of such sentence. A trial or retrial of civil cases in the district courts may be had in the superior court by a claim in writing being made in the district court for a jury trial on the entry day of the writ, or within 2 days, exclusive of Sundays and legal holidays, after the decision of the district court is made, except in cases for the possession of tenements let or held at will or by sufferance, in which cases the claim must be made within 6 hours after decision as aforesaid. The state is divided into twelve districts, in each of which there is a district court with jurisdiction in civil causes when the sum involved does not exceed \$300. The town councils are courts of probate within their respective towns, and the municipal court of

Providence is the court of probate of that city. Any town may, however, elect a probate judge at its annual election.

**South Carolina.**—The courts are a supreme court, circuit courts, probate courts, and magistrates' courts. The supreme court has appellate jurisdiction of circuit-court cases. The circuit courts have original jurisdiction of suits at law and in equity, and have jurisdiction of appeals from the probate courts and magistrates' courts. There are two circuit courts, viz., a court of common pleas and a court of general sessions. The court of common pleas has jurisdiction of all civil actions and, subject to appeal to the supreme court; it has jurisdiction to issue all remedial writs. The court of general sessions has jurisdiction of all criminal cases. The probate courts have jurisdiction in matters relating to the estates of deceased persons, minors, and insane or idiotic persons. Magistrates' courts have jurisdiction of civil actions involving \$100 or under.

**South Dakota.**—The circuit court has general common law and equity jurisdiction. The county court has exclusive jurisdiction in probate matters, and in counties having a population of 20,000 or over has concurrent jurisdiction with the circuit court in actions at law when the amount in controversy does not exceed \$1,000. Appeals from the circuit court and county court lie to the supreme court.

**Tennessee.**—Circuit courts hold three terms annually, and have general common law jurisdiction in all cases involving over \$50. Chancery courts have full equity jurisdiction, and concurrent jurisdiction with the circuit courts of all civil causes, except actions for injuries to person, property, or character, involving unliquidated damages. Appeal lies to the supreme court. Justices of the peace have jurisdiction in civil cases to \$1,000 upon all notes of hand and upon indorsements of negotiable paper, where demand and notice are expressly waived in the indorsement; in all other civil cases of unsettled accounts, obligations, contracts, or other evidences of debt not mentioned before, to \$500; in cases for the recovery of property, and in all cases of damages, except for libel and slander, arising from either tort or contract, to \$500; and equity jurisdiction where the value sued for does not exceed \$50.

**Texas.**—An appeal may be taken to the court of civil appeals from every final judgment of the district court in civil cases and from every final judgment in the county court in civil cases of which the county court has original jurisdiction, and from every final judgment of the county court in civil cases of which the court has appellate jurisdiction, where the judgment or amount in controversy exceeds \$100, exclusive of interest and costs. Writs of error from courts of civil appeal are granted by the supreme court in certain cases. District courts have exclusive original jurisdiction in suits for slander, divorce, for trial



of title to land and foreclosure of mortgages, and enforcements of liens on real estate, also in suits for the sum of \$1,000 or more; appellate jurisdiction in probate matters from the county courts; and concurrent jurisdiction with the county courts in all suits from \$500 to \$1,000. County courts have exclusive original jurisdiction in civil suits when the amount in controversy exceeds \$200 and does not exceed \$500, and concurrent jurisdiction with district courts, when the amount in controversy is between \$500 and \$1,000, except suits for slander or defamation of character and the enforcement of liens on real estate. They also have general jurisdiction in all probate matters. Appeals are allowed from judgments of a justice of the peace to the county court.

**Utah.**—District courts are courts of general jurisdiction of both civil and criminal matters, and also probate matters, together with appellate jurisdiction of cases from justices of the peace. City courts are established in cities of over 15,000 inhabitants, with civil jurisdiction up to \$500, and criminal jurisdiction the same as justices of the peace. Appeals lie from city courts and justices' courts to the district court, and from the district court to the supreme court.

**Vermont.**—The chancery court has general equity jurisdiction; appeal lies to the supreme court. County courts have original and exclusive jurisdiction of all civil actions not cognizable by a justice, and have appellate jurisdiction of cases over \$20 from justices of the peace, and of cases from the probate courts.

**Virginia.**—The supreme court of appeals has appellate jurisdiction in all criminal cases and of civil suits of over \$300, with original jurisdiction for writs of *habeas corpus*, *mandamus*, and prohibition. Circuit courts, numbering twenty-four, have jurisdiction of all matters of law and equity where the amount exceeds \$20, except within the city of Richmond, where there is a separate chancery court, also a court of general jurisdiction (except criminal), called the law and equity court, and a circuit court of common-law jurisdiction. In Norfolk city there is a court of general jurisdiction (except criminal), called the law and chancery court. Appeal lies to them from the county courts. Corporation courts exist in every city of over 5,000 inhabitants, and have jurisdiction within the city limits the same as that of the circuit courts, except in the city of Richmond, where the jurisdiction of the corporation court is mainly criminal, the only civil cases coming to it on appeal from the magistrates' or justices' courts. The county court has jurisdiction of the lesser crimes and misdemeanors. Circuit and corporation courts have jurisdiction of probate of wills and granting letters of administration and the appointment of guardians, curators, committee of lunatics, and the like. Appeal lies from justices of the peace to the circuit or corporation courts.

**Washington.**—Superior courts have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to \$100; in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; in all matters of probate; of divorce; and in all cases and of all proceedings in which jurisdiction shall not have been, by law, vested exclusively in some other court. These courts have power to issue writs of *mandamus*, *quo warranto*, review, *certiorari*, prohibition, *habeas corpus*, and injunctions.

**West Virginia.**—The supreme court of appeals is the court of last resort, hearing appeals involving over \$100, or matters as to land titles, probate, and equity cases, and having the usual original jurisdiction. Circuit courts, in each county, sitting three times each year, have general jurisdiction in matters involving more than \$50; in cases of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and prohibition; of all cases in equity; of all crimes and misdemeanors; and also appellate jurisdiction from justices' courts. County courts are county tribunals with jurisdiction in matters of roads, ferries, fiscal affairs, and also matters of probate, appointment of personal representatives, guardians, committees, and the like, with certain provisions as to appeals to the circuit court.

**Wisconsin.**—Circuit courts have general jurisdiction of all actions, except those against the state. Certain county courts have equal jurisdiction of civil actions with the circuit courts. The county courts also have jurisdiction over probate matters. From the county courts, on their probate side, an appeal lies to the circuit court for the same county and thence to the supreme court. From the county courts and the circuit courts, appeals lie directly to the supreme court. From justices' courts, an appeal lies to the county.

**Wyoming.**—District courts have general jurisdiction in all cases at common law or equity, as well as over all probate matters. Justices of the peace have jurisdiction in contracts involving values not to exceed \$200. Appeals lie from justices' courts to district courts, and from district courts to the supreme court.

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## PROVINCES OF THE DOMINION OF CANADA

From the highest court of every province an appeal may be generally taken to the supreme court of Canada, and in certain cases from there to the privy council in England.

**British Columbia.**—The full court for the hearing of appeals is the highest appellate court. The supreme court has jurisdiction



over all actions, civil and criminal, and is vested with all the powers of the courts of common law, chancery, and probate. The county court has jurisdiction only in personal actions and actions for debt, contract and liquidated demands up to \$1,000, and estates not exceeding \$2,500. The small-debts court has jurisdiction in actions of any kind of debt up to \$100.

**Manitoba.**—The court of king's bench is the supreme court, and has original and appellate jurisdiction both at law and in equity. County courts have jurisdiction in personal actions of tort and replevin up to \$250, and in personal actions *ex contractu* up to \$400. The surrogate's court has probate jurisdiction.

**New Brunswick.**—The supreme court has general original jurisdiction, as well as appellate jurisdiction. The parish and city courts have jurisdiction in actions on contract up to \$80; the county court up to \$400, except where title to land comes into question; in actions of tort, they have a more limited jurisdiction. Probate courts have probate jurisdiction.

**Nova Scotia.**—The supreme court (the highest court of justice) has both appellate jurisdiction and general original jurisdiction. County courts have jurisdiction up to \$400. Probate courts have probate jurisdiction.

**Ontario.**—The divisional court and the court of appeals are appellate courts. The high court of justice has jurisdiction in all civil cases except from the jurisdiction of the lower courts. County courts have a limited jurisdiction in civil cases usually up to \$200. Division courts have jurisdiction up to \$100. Surrogate's courts have jurisdiction over probate matters.

**Quebec.**—The court of king's bench has appellate jurisdiction of cases involving over \$100. The superior court sits in the chief town in each district, and the circuit court, in different places. In most districts there is also a stipendiary magistrates' court, which sits at different places. The province is divided into twenty judicial districts. The superior court has unlimited jurisdiction in cases involving over \$100. The circuit court has jurisdiction in all cases involving less than \$100, except those which relate to title of lands, fees of office, or future rights, which can be evoked to the superior court. The magistrates' court has civil jurisdiction in cases not exceeding \$50.

## DECEDENTS' ESTATES

**Alabama.**—If neither the husband nor widow, nor the next of kin, take out letters of administration, the court may appoint as administrator the largest creditor residing within the state. If persons of these preferred classes do not apply for letters in 40 days, their rights are waived. When a married woman is entitled, letters of administration may be granted to her husband in her right. Non-residents may be appointed executors upon giving bond. A married woman may be appointed executor on the written consent of her husband. Payment of debts is in the following order: Funeral expenses; administration expenses; expenses of last sickness; taxes on decedent's estate assessed previous to his death; debts to employes for services within 1 year of death; other debts. All claims against the estate must be presented within twelve months after the same have accrued, or within 12 months after the grant of administration, and, if not presented or filed within that time, are forever barred. Infants and lunatics are allowed 18 months after the removal of their disability to present their claims. Presentation is made to the representative, or by filing the claim or a statement thereof in the office of the probate judge of the county where letters were granted. No suit may be commenced against the representative of an estate until after the lapse of 6 months from the grant of administration; and no judgment may be rendered against such representative until the expiration of 12 months after the grant of administration. Claims against insolvent estates are barred unless filed in the office of the probate judge where such estate is being administered within 6 months after the declaration of insolvency.

**Arizona.**—Letters of administration are granted in the following order: Surviving husband or wife, father or mother, brothers, sisters, grandchildren, next of kin who share in the distribution, creditors, any other person competent; they cannot be granted to married women, nor to the surviving partner of a decedent. Immediately after his appointment, the executor or administrator must publish a notice to creditors once a week for 4 weeks. Claims must be presented within 10 months, if the estate be over \$3,000 in value; otherwise, within 4 months. After the presentment of a claim, the representative shall indorse thereon his rejection or approval. Then the claim is presented to the probate judge for his approval. If either the representative or the judge shall delay approval for 10 days, the claim is considered rejected. The holder of the claim then has 3 months to bring suit



against the representative, or, if the claim be not due, 2 months after it becomes due; otherwise, it is barred forever. The widow and the children may have set apart for their use the homestead, in value not exceeding \$4,000, and personal property not exceeding \$1,000.

**Arkansas.**—Executors and administrators must be residents of this state. Foreign executors and administrators may maintain actions here. After payment of the expenses of funeral and last illness, the following claims are preferred: Judgments which are liens on the decedent's realty; all other demands properly exhibited to the representative within 1 year after the grant of letters; other claims exhibited after the end of 1 year, and within 2 years after the grant of letters. All claims must be presented within 2 years.

**California.**—If the next of kin do not take out letters of administration, in the order of preference beginning with the surviving husband and wife, next children, father or mother, brothers, sisters, grandchildren, the public administrator is preferred in the grant of letters of administration to the creditors. If any person entitled to administration be a minor or an incompetent person, letters may be granted to his or her guardian, or to any other person entitled to administration, in the discretion of the court. Executors and administrators immediately after appointment must publish a notice to creditors once a week for 4 weeks. After payment of the expenses of funeral and last sickness, the following claims are preferred: Debts preferred by the laws of the United States; judgments and mortgages against the decedent. Claims must be presented within 10 months if the estate be valued at \$10,000 or over; otherwise, within 4 months. If the claimant, by reason of being out of the state, have no notice of the time to present claims, he may present them at any time before the final decree of distribution. The representative must indorse upon every claim his approval or rejection. Every claim so allowed, or a copy thereof, must be filed with the court within 30 days thereafter. When a claim is rejected, the holder must bring suit within 3 months thereafter, if it be then due, or within 2 months after it becomes due; otherwise, the claim is barred.

**Colorado.**—If no relative apply for letters within 20 days from the death of the intestate, the court may appoint as administrator any creditor applying. If no creditor apply within 30 days after the death of the intestate, the court appoints any competent party. Claims against estates must be paid in the following order: Money received by the decedent as executor, administrator, trustee, or guardian, and not accounted for; funeral expenses, and those of last illness, including the physician's bill, administration expenses, allowances made by law to widow or orphans, all other claims presented within 1 year from the grant of letters. All claims must be presented within 1 year;

otherwise, they are barred, unless such creditor can find other property of the decedent not inventoried, saving, however, to married women, persons of unsound mind, imprisoned, or beyond the seas, the term of 1 year after the removal of their disability.

**Connecticut.**—Administration may be granted to a non-resident. A person absent and unheard of for 7 years is presumed to be dead, and administration may be granted upon the estate of such person; but a refunding bond is required from those to whom the property is distributed. If the will provide that no bond be required, the amount of the bond is generally nominal, or is adapted only to protect creditors of the estate. An inventory of all the decedent's property, appraised by two disinterested persons, must be filed within 2 months. After the payment of the expenses of funeral and settlement, the order of payment of debts is: Expenses of last sickness; taxes and debts due to the state and the United States; other preferred claims. The court limits the time for the presentment of claims at from 6 to 12 months. If the representative disallow a claim, the holder must bring suit within 4 months after receiving written notice of such disallowance. If the estate be insolvent, the court may appoint two commissioners to receive and pass upon claims, and an appeal from such commissioners may be had to the superior court within 1 month from the filing of their report. After dower is set out, the estate will be distributed by three persons appointed therefor; or, if all entitled to the estate be of full capacity, they may file in court a division executed and acknowledged like deeds of land. When any real estate or any interest therein is distributed or set out to devisees, heirs, husband, or wife, the executor or administrator, within 1 month thereafter, is required to procure from the probate court, and cause to be recorded in the town where such real estate is situated, a certificate containing the name and residence of each of such beneficiaries and a particular description of the estate or interests so set out or distributed.

**Delaware.**—The register of wills of the proper county grants letters. Administration is granted first to any one of those entitled to the residue of the estate, next, to any creditor. The register has power to remove an executor or administrator for absence, inability, or neglect of duty. Foreign executors and administrators upon producing letters under the seal of the court granting, and giving bond, may act here. After funeral expenses and bills for medicine, medical attendance, nursing, and necessities during last illness, the following claims are preferred: Household and farm servants' and laborers' wages for 1 year; rent in arrears or accruing for 1 year; judgments, recognizances, mortgages, and other obligations of record; obligations under seal; contracts for the payment of money, delivery of goods, and the like; all other demands. Before an executor or administrator shall pay any debt of the estate it shall be probated. The probate may be



against the representative, or, if the claim be not due, 2 months after it becomes due; otherwise, it is barred forever. The widow and the children may have set apart for their use the homestead, in value not exceeding \$4,000, and personal property not exceeding \$1,000.

**Arkansas.**—Executors and administrators must be residents of this state. Foreign executors and administrators may maintain actions here. After payment of the expenses of funeral and last illness, the following claims are preferred: Judgments which are liens on the decedent's realty; all other demands properly exhibited to the representative within 1 year after the grant of letters; other claims exhibited after the end of 1 year, and within 2 years after the grant of letters. All claims must be presented within 2 years.

**California.**—If the next of kin do not take out letters of administration, in the order of preference beginning with the surviving husband and wife, next children, father or mother, brothers, sisters, grandchildren, the public administrator is preferred in the grant of letters of administration to the creditors. If any person entitled to administration be a minor or an incompetent person, letters may be granted to his or her guardian, or to any other person entitled to administration, in the discretion of the court. Executors and administrators immediately after appointment must publish a notice to creditors once a week for 4 weeks. After payment of the expenses of funeral and last sickness, the following claims are preferred: Debts preferred by the laws of the United States; judgments and mortgages against the decedent. Claims must be presented within 10 months if the estate be valued at \$10,000 or over; otherwise, within 4 months. If the claimant, by reason of being out of the state, have no notice of the time to present claims, he may present them at any time before the final decree of distribution. The representative must indorse upon every claim his approval or rejection. Every claim so allowed, or a copy thereof, must be filed with the court within 30 days thereafter. When a claim is rejected, the holder must bring suit within 3 months thereafter, if it be then due, or within 2 months after it becomes due; otherwise, the claim is barred.

**Colorado.**—If no relative apply for letters within 20 days from the death of the intestate, the court may appoint as administrator any creditor applying. If no creditor apply within 30 days after the death of the intestate, the court appoints any competent party. Claims against estates must be paid in the following order: Money received by the decedent as executor, administrator, trustee, or guardian, and not accounted for; funeral expenses, and those of last illness, including the physician's bill, administration expenses, allowances made by law to widow or orphans, all other claims presented within 1 year from the grant of letters. All claims must be presented within 1 year;

otherwise, they are barred, unless such creditor can find other property of the decedent not inventoried, saving, however, to married women, persons of unsound mind, imprisoned, or beyond the seas, the term of 1 year after the removal of their disability.

**Connecticut.**—Administration may be granted to a non-resident. A person absent and unheard of for 7 years is presumed to be dead, and administration may be granted upon the estate of such person; but a refunding bond is required from those to whom the property is distributed. If the will provide that no bond be required, the amount of the bond is generally nominal, or is adapted only to protect creditors of the estate. An inventory of all the decedent's property, appraised by two disinterested persons, must be filed within 2 months. After the payment of the expenses of funeral and settlement, the order of payment of debts is: Expenses of last sickness; taxes and debts due to the state and the United States; other preferred claims. The court limits the time for the presentment of claims at from 6 to 12 months. If the representative disallow a claim, the holder must bring suit within 4 months after receiving written notice of such disallowance. If the estate be insolvent, the court may appoint two commissioners to receive and pass upon claims, and an appeal from such commissioners may be had to the superior court within 1 month from the filing of their report. After dower is set out, the estate will be distributed by three persons appointed therefor; or, if all entitled to the estate be of full capacity, they may file in court a division executed and acknowledged like deeds of land. When any real estate or any interest therein is distributed or set out to devisees, heirs, husband, or wife, the executor or administrator, within 1 month thereafter, is required to procure from the probate court, and cause to be recorded in the town where such real estate is situated, a certificate containing the name and residence of each of such beneficiaries and a particular description of the estate or interests so set out or distributed.

**Delaware.**—The register of wills of the proper county grants letters. Administration is granted first to any one of those entitled to the residue of the estate, next, to any creditor. The register has power to remove an executor or administrator for absence, inability, or neglect of duty. Foreign executors and administrators upon producing letters under the seal of the court granting, and giving bond, may act here. After funeral expenses and bills for medicine, medical attendance, nursing, and necessities during last illness, the following claims are preferred: Household and farm servants' and laborers' wages for 1 year; rent in arrears or accruing for 1 year; judgments, recognizances, mortgages, and other obligations of record; obligations under seal; contracts for the payment of money, delivery of goods, and the like; all other demands. Before an executor or administrator shall pay any debt of the estate it shall be probated. The probate may be



taken out of the state before any one authorized to take acknowledgments, and the expenses thereof shall be borne by the estate.

**District of Columbia.**—Administration is granted to: The widow or a child, in the discretion of the court; grandchildren; the father; the mother; brothers and sisters; next of kin; the largest creditor. A bond is required with such penalty as the court may direct. The order of payment of debts after funeral expenses is as follows: (1) Rent claims in arrear for which an attachment might be levied; (2) judgment and decrees of courts in the district; (3) other claims equally.

**Florida.**—If the husband or widow, or those entitled to distribution in the order of consanguinity, do not apply for administration, or qualify, after citation published for 6 weeks in a newspaper printed in the district in which the intestate died, then administration may be granted to any creditor or some fit person. If no one apply for letters within 60 days, the probate court may order the sheriff to act. Bonds may be required of executors, upon proper showing of the necessity therefor at the instance of any person interested. An administrator appointed in another jurisdiction may demand, collect, and bring suit for debts here, though he cannot defend. The order of payment of debts is: Necessary funeral expenses; board and lodging during last sickness; medical attendance; nursing and medicine during last illness; judgments of record rendered during the lifetime of deceased, and all debts due this state; all other debts equally. Claims must be presented within 2 years, or within 1 year if the estate be valued at less than \$2,000.

**Georgia.**—The ordinary of the county grants administration to: The husband or widow; the next of kin, relations by consanguinity preferred; the largest creditor; the county administrator; if none, the clerk of the superior court. If there be several next of kin of equal degree, the one selected by a majority of those interested, as distributees, shall be appointed. A non-resident cannot be appointed administrator except he be an heir of equal, greater, or sole interest. Executors and administrators appointed in other states of the United States, upon giving resident security, and filing a properly authenticated exemplification of their letters, may bring suit or sell property of the decedent here. The order of payment of debts is: Funeral expenses; expenses of last illness, including physician's bill; expenses of administration, including a years' support for the family of the decedent; taxes and other debts due the state or the United States; debts due by the deceased as administrator, executor, guardian, or trustee having actual control of trust property; judgments, mortgages, and other liens of record; debts due for rent; all liquidated demands and all debts, the amount of which was fixed or acknowledged in

writing prior to the death of the decedent; open accounts. Claims must be presented within 1 year after the representative qualifies. Even if the creditor do not present his claim within 12 months, he may still collect the same out of any assets liable, or enforce contribution from heirs where the estate has been distributed. No action can be brought against the representatives within 12 months. Administrators are required to make annual returns to the court of the ordinary on the first Monday in July of every year, and file their vouchers.

**Idaho.**—In the grant of administration, after the next of kin, the public administrator receives letters. Claims must be presented within 10 months after the first publication of notice by the executor or administrator. If rejected, suit must be brought within 3 months from the date of rejection. Non-allowance for 10 days by the administrator or executor is rejection. Debts of deceased are paid in the following order: Funeral expenses; expenses of last illness; debts preferred by the laws of the United States; judgments; all other demands.

**Illinois.**—Administration is granted to the husband or widow, or the next of kin, or some person nominated by them. If no relative apply within 60 days, administration may be granted to a creditor, and, if no creditor apply within 15 days after the lapse of 60 days, letters may be granted to any person the probate court may suggest. In cases where the intestate is a non-resident without relations in this state, leaving property within this state, letters shall be granted to the public administrator. The executor or administrator must give 6 weeks' notice to creditors to present claims. The order of payment of debts is: Funeral expenses; widow's award; expenses of last illness (except physician's bill); debts due common school or township fund; expenses of administration; physician's bill in last illness; claims against the deceased for money received in trust and not accounted for; servants' and laborers' wages for 6 months previous to the death of the deceased; all other claims presented within 1 year from the granting of letters. All demands not exhibited within 2 years are barred, unless other estate of the deceased, not inventoried or accounted for by the executor, be found. A contingent claim, becoming absolute after administration, is not barred. If a claim be objected to, the case is determined as other suits at law. Certain specified articles of personal property, in preference to all debts, claims, charges, legacies, and bequests, except funeral expenses, compose the widow's award; and, if she so elect, she may take the appraised value of such property, which ranges from \$500 to \$1,500, or any part of it, in money. Within 6 months from the time of his qualifying for his trust, every executor or administrator is required to fix upon a term of court for the adjustment of all claims against the estate of the deceased, and to publish notice thereof in a newspaper published in the county.



**Indian Territory.**—Administration is granted in the usual order. Foreign administrators may sue with like effect as if appointed here. Priority of claims against an estate is as follows: Funeral expenses; expenses of last sickness; wages of servants; medicines, and medical attendance during last sickness; judgments which are liens on the lands of the decedent; all demands without regard to quality, which shall be exhibited within 1 year of the granting of the letters; all other demands exhibited not within 1 year, but within 2 years. Claims not authenticated and presented to the administrator or executor within 2 years from the grant of letters are forever barred.

**Indiana.**—The circuit court, or during vacation the clerk thereof, grants letters. After the husband or widow and the next of kin, administration will be granted to: The largest creditor applying and residing in the state; if no relative or creditor apply within 20 days from the death of intestate, a competent inhabitant of the county may be appointed by the court clerk. Administration may be granted upon the estate of a person absent from the state for 5 years and not heard from. Letters cannot issue to a married woman without her husband's consent in writing, filed with the clerk. Foreign executors and administrators may act in all matters affecting the estate of the decedent situate in Indiana, but are required to give bond for costs on bringing suit; and on filing an authenticated copy of their appointment in the circuit court of any county in this state in which there may be real estate of the deceased, they may be authorized by such court to sell the real estate for the payment of debts and legacies, in the same manner as a resident administrator. The following is the order of payment of debts: Expenses of administration; funeral expenses; expenses of last sickness; taxes; secured claims; wages due employes for work and labor performed within 2 months of the decedent's death to an amount not exceeding \$50; general debts; legacies. Claims must be filed within 1 year from the giving of notice of appointment; otherwise, the claimant must pay all the costs, and, if not filed at least 30 days before the final settlement of the estate, they shall be barred, unless the claimants be persons under disabilities. At the end of one year from the issuing of letters, the executor or administrator is required to file in court a report of assets and disbursements, duly verified by his affidavit; and thereupon, it appearing to the court that the estate is clearly solvent, a distribution will be ordered of the moneys on hand among the creditors of the deceased, according to law. For failure to file such a report, the executor or administrator may be cited for contempt. A second report is required at the expiration of 6 months, and unreasonable and unnecessary delay may be punished by the court.

**Iowa.**—The district court of each county, or in vacation the clerk thereof, appoints executors and administrators. In the grant of administration, each of the usual classes shall, in succession, have

20 days beginning with the burial of the deceased within which to apply for letters. Foreign executors and administrators, upon application and qualification in Iowa, may be appointed to administer upon the property of the deceased here. Public notice of the appointment of executors or administrators must be given within 10 days, and an inventory of property filed within 15 days. Debts must be paid in the following order: Administration expenses; expenses of funeral and last sickness; allowance for widow and children; debts preferred by the laws of the United States; public rents and taxes; claims filed within 6 months after the first publication of notice; all other debts filed within 1 year; legacies. Claims filed within 6 months after the first publication of notice may be paid off at any time after the 6 months without any regard to claims not yet filed. All claims must be presented within 1 year; otherwise, they are barred, unless peculiar circumstances entitle the claimant to equitable relief. Claims shall be sworn to and filed, and 10 days' notice of the hearing thereof, accompanied by a copy of the claim, shall be served on one of the executors or the administrators, unless the same have been approved by them, in which case they may be allowed by the clerk without said notice. Demands not yet due may be presented, proved, and allowed as other claims. On the expiration of 6 and within 7 months of the first publication of notice of appointment, a full account must be rendered, and others from time to time as may be convenient or required by the court, and a final settlement shall be made within 3 years, unless otherwise ordered by the court. If necessary, the court shall set apart to the widow, and to the children under 15 years of age, a sufficient amount to support them for 12 months from the decedent's death.

**Kansas.**—Letters testamentary or of administration shall in no case be granted to a non-resident. Foreign executors or administrators, where none have been appointed in this state, may administer here by filing a copy of the appointment and giving bond. An inventory of the estate must be filed within 60 days, and the personal property appraised by three persons appointed by the court. The order of payment of debts is: Funeral expenses; expenses of last sickness, and of administration; debts due the estate; judgments rendered against the decedent during his lifetime; all claims legally exhibited within 1 year from the grant of letters; claims presented after 1 year and within 2 years; claims presented after 2 years and within 3 years. All claims must be presented within 3 years. Any person desiring to establish a claim against an estate in the ordinary way through the probate court may do so by serving upon the executor or administrator, 10 days before the claim is presented for allowance, a written notice, stating the amount and nature of his claim, giving a copy of the writing, instrument, or account upon which the claim is founded, and stating that such claim will be



presented to the probate court for allowance at a time and place to be stated in the notice. The administrator or executor, however, may waive this notice by his written waiver or by appearance in open court. In all cases where the demand exceeds \$20, either party may demand a jury trial. Claims not exceeding \$50 may be paid directly by the administrator without the order of the probate court.

**Kentucky.**—Administration is to be granted to the relations of deceased who apply for same, preferring the surviving husband or widow. If no such person apply, by the second county court from the death of the intestate, the court may grant administration to a creditor or to any other fit person. If there be no personal representative in Kentucky for a non-resident decedent, his personal representative appointed elsewhere may sue by giving bond. Executors and administrators are required to file an inventory of the estate within 3 months from the date of qualification. Funeral expenses, costs and charges of administration, and the amount of the estate of a decedent, or a person of unsound mind, in the hands of the decedent, are to be paid in full. This preference does not extend to a demand foreign to this state. Creditors are required to prove their claims by affidavit; if the debt be a written contract, or, if it be upon an account, there must be in addition the affidavit of one disinterested witness. Six months from the qualification of the personal representative must elapse before he can be sued.

**Louisiana.**—Preference is given to heirs in the appointment of an administrator. Trust companies may be appointed. In the parish of Orleans, the public administrator, appointed by the governor, has the right to administer all estates, where no heir lives in the parish, or claims the estate, directly or through a duly constituted agent. Foreign executors and administrators may act here upon being qualified, and giving bond. A resident executor need not give bond unless required to do so by the creditors. The order of payment of debts is: Funeral expenses; law charges; expenses of last illness; wages of servants; supplies of provisions; salaries of clerks, secretaries, and the like. The widow or the minor children of the deceased, left in necessitous circumstances, are entitled to demand and receive from the estate \$1,000, payable in preference to all other debts except those of vendor's privilege and expenses in selling the property.

**Maine.**—If the widow or the next of kin fail to apply for administration within 30 days from the decedent's death, letters may be granted to any suitable person. Residents of other states may be executors or administrators, but must appoint a resident agent, and give bond with two resident sureties. Administration may be granted at any time within 20 years after death. Debts must be paid in the following order: Funeral and administration charges; allowances

to widow and minor children; expenses of last sickness; debts preferred by the laws of the United States; taxes and money due the state; other debts. One year is allowed to pay claims. Commissioners are appointed to examine exorbitant claims, and, if the estate be declared insolvent, two commissioners are appointed to determine claims. Six months are allowed for their report to the probate court, but the time may be extended to 18 months.

**Maryland.**—The register of wills of the proper county grants letters. Administration shall be granted to the husband or widow, as the case may be, or to a child at the discretion of the court, to a grandchild, father, brothers and sisters, mother, and next of kin, or to the largest creditor applying for letters, in the order named. Administration may be granted on the estates of persons absent and unheard of for more than 7 years. The administrator must publish a notice to the creditors at least 6 months before making distribution; he must have the personal property appraised, and file an inventory of the same, with a list of debts due to and from the estate. The following order in the payment of debts is observed: Funeral expenses; taxes; rent; judgments and decrees; other debts. The orphans' court must approve all accounts against the estate.

**Massachusetts.**—Administration is granted: To the widow or the next of kin, or to them jointly; or, if the deceased were a married woman, to her husband; to one or more of the principal creditors; to such person as the probate court may deem fit; to a public administrator, in preference to creditors, when there is no widow, husband, or next of kin within the commonwealth. After 20 years from the decedent's death, letters will be granted only for good cause shown. Non-residents may be appointed on giving bond with resident sureties, and appointing a resident agent. Administration may be granted on estates of persons who have disappeared for 14 years. Administrators need not give bond, if the parties in interest consent to exemption therefrom. They must give notice of appointment within 3 months. After paying funeral expenses, and expenses of last sickness and of administration, the estate is applied to the payment of debts as follows: Debts entitled to preference under the laws of the United States; public rates, taxes, and excise duties; wages, not exceeding \$100, due to clerks, servants, or operatives for labor performed within 1 year next preceding the decedent's death; debts due all other persons. Unless for the recovery of a demand not affected by the insolvency of the estate, no executor or administrator is answerable to a suit by a creditor of the estate commenced within 1 year after his giving bond, and, if due notice of the appointment have been given, he may, provided he have not within the year had notice of demands which authorize him to represent the estate as insolvent, proceed to pay the debts. If due notice of appointment have been made, no executor or administrator



is answerable to a creditor of the deceased, unless suit be commenced within 2 years from the time of giving bond—usually the time of appointment. Equity may give relief to a creditor after the 2 years, if he be not chargeable with culpable negligence in presenting his claim. If assets come to the executor's or administrator's hands after the expiration of 2 years, he is liable for 1 year after the creditor has received notice of the receipt thereof, and within 2 years after they are actually received. A creditor whose right of action does not accrue within 2 years after giving bond by the executor or administrator can obtain an order from the probate court, if the court be satisfied that the claim is valid, directing such executor or administrator to retain sufficient funds to satisfy the same. If the executor or administrator find the estate to be insolvent, he must so represent it to the probate court, and commissioners will then be appointed to examine and report upon the validity of all claims presented. Executors and administrators, at least once a year, unless excused by the court, must render a full account of their doings.

**Michigan.**—Administration is granted to the widow or husband, or the next of kin, or the grantee of the interest of one of them, or such of them as the court may think proper. If the above parties neglect for 30 days to apply, or if they be unsuitable, letters may be granted to a creditor. Both executors and administrators are required to give security. The order observed in the payment of debts is: Funeral expenses; expenses of last illness; debts having a preference under the laws of the United States; other debts. When administration of an estate is granted, the probate court may, and generally does, appoint commissioners to receive and adjust all claims against the deceased, or these commissioners may be appointed subsequently at any time. It is the duty of these commissioners to appoint the times and places for their meetings, and to give at least 4 weeks' notice thereof to creditors. The court allows in the first instance not less than 6 nor more than 18 months in which to prove debts, but may extend the time to not exceeding 2 years in all. The court may itself hear claims. The widow and the children constituting the family of the deceased are entitled to a reasonable maintenance during the settlement of the estate, but in the case of an insolvent estate the time must not exceed 1 year after granting the administration. Motherless children under 10 years are entitled to maintenance until they reach that age.

**Minnesota.**—Administration is granted: To the widow or husband, or the next of kin, or both, as the judge of probate may think proper, or such person as the widow or husband, or the next of kin, may request to have appointed; if the widow or husband, or the next of kin, or the person selected by them, be unsuitable or incompetent, or if the widow or husband, or the next of kin, neglect to apply

for letters for 30 days after the death of the intestate, the same may be granted, if the deceased were a native of any foreign country, to a consul or other representative of that country, or to some person selected by him. If the consul neglect to apply, and where the deceased was not a native of any foreign country, letters are granted to one or more of the principal creditors, if any such be competent and willing to take them. The order of payment of debts is: Funeral expenses; expenses of last sickness; debts preferred by the laws of the United States; taxes; other debts. Claims are filed in the probate court, and allowed by the judge. At the time of the granting of letters testamentary or of administration, the court makes an order limiting the time within which creditors may present their claims against the deceased for examination and allowance, which cannot be less than 6 months nor more than 1 year from the date of the order. The order is published once a week for 3 weeks, and is notice to all creditors. No claim or demand can be received after the expiration of the time limited unless for good cause shown, but no claim shall be received or allowed unless presented within 1 year and 6 months from the time when notice of the order is given.

**Mississippi.**—Letters of administration are granted in the following order of preference: The husband or wife; others who may be entitled to distribution, if of full age, selecting among those applying, having equal rights, the one best calculated to serve, in the opinion of the court. If no relative apply for letters within 30 days from the intestate's death, the court may grant letters to any creditor who may apply, or to any other suitable person; or, if no person apply within 6 months, it is the duty of the chancery court to grant letters to the county administrator, who is a county officer. Funeral expenses and the physician's bill for the decedent's last illness are to be paid first, in full, where the estate is insolvent. Claims must be proved, registered with the clerk of the chancery court, and allowed, within 12 months from the first publication of the notice to creditors; otherwise they will be barred. Probate, registration, and allowance shall be sufficient presentation of the claim to the executor or administrator. Executors and administrators must account to the court once each year.

**Missouri.**—Upon proof by affidavit, satisfactory to the probate court, of the value and nature of an estate, and that no estate will be left after allowing to the widow or the minor children their absolute property, no letters of administration shall be issued for such estate unless, upon the application of creditors or other parties interested, the existence of other or further property be shown. And by virtue of such order, the widow or the minor children are authorized to collect, sue for, and retain all the property belonging to such estate. Foreign executors are not recognized, except that they may bring suit in this state, if the cause of the action have accrued in a foreign state. Even



when the testator provides that this executor shall not be required to give bond, he may be required to do so, in the discretion of the court, at the instance of any creditor or devisee. The inventory, and an appraisal made by three disinterested persons who are householders, must be filed within 60 days after the letters are granted. Notice to creditors to present claims must be published for 3 weeks in a newspaper within the county, within 30 days after the letters are granted. Debts are payable in the following order: Funeral expenses; wages of servants; demands for medicine and medical attendance, and expenses of last illness; debts due the state, the county, or any incorporated city or town; judgments rendered against the decedent in his lifetime; all demands legally exhibited within 1 year from the grant of letters; demands legally exhibited after 1 year and within 2 years. All claims must be presented within 2 years from the date of the publication of notice, or from the date of the grant of letters, if the notice be published within 30 days as above. All demands are heard and determined by the probate court in a summary way without the form of pleading. Every executor and administrator, at the first term of probate court after the end of 1 year from the date of his letters, and at the corresponding term of such court every year thereafter until the administration is completed, shall exhibit a sworn statement of the accounts of his administration for settlement, with the proper vouchers.

**Montana.**—In the grant of administration, after the next of kin and before the creditors, the public administrator is preferred. A surviving partner or a non-resident of this state must not be appointed. The order of payment of debts is: Funeral expenses; expenses of last sickness; wages due clerks, laborers, and servants for services rendered within 60 days before the decedent's death, not exceeding \$200; debts due the county, state, or United States; other debts. Claims must be presented within 10 months if the estate be valued at \$10,000 or over; if less, within 4 months. Claims must be allowed by the executor or administrator, and approved by the court. If a claim be rejected, an action must be commenced thereon within 3 months thereafter. No claimant can maintain an action, unless his claim be first presented to the representative, and there must also be presentment where an action was pending at the time of the death of the decedent. If the value of the estate do not exceed \$1,500 after paying the expenses of the funeral, last illness, and administration, the court must assign the amount for the wife and the minor children, and there must be no further proceedings in the administration.

**Nebraska.**—Administration is granted to: The surviving husband or wife, or the next of kin, or both, or some competent person suggested by them; in default of such appointment for 30 days, one or more of the principal creditors; any other fit person. Foreign executors or administrators, where none are appointed in this state, may file an

authenticated copy of their appointment in the district court of any county in which there may be any real estate of the decedent, and may be licensed by the court to sell the same. Claims against the estate are passed upon and allowed by the county court. But either party has the right to demand that two or more commissioners be appointed to examine and adjust all claims against the estate. Claims shall be barred unless presented within such time as the probate judge shall fix, not less than 6 nor more than 18 months from the granting of letters. The probate court may extend the time allowed to creditors to present their claims, as the circumstances of the case may require, but not so that the whole time shall exceed 2 years from the time of appointing such commissioners. Debts of a decedent are paid in the following order: Funeral expenses; expenses of last illness; debts preferred by laws of the United States; debts due other creditors.

**Nevada.**—After surviving husband or wife, the next of kin, and creditors, the public administrator is preferred in the appointment of administrator. Claims must be filed within 3 months after the first publication of notice of the appointment of the executor or the administrator, except where summary administration on estates not exceeding in value \$2,000, when the time for filing claims is 40 days. Claims must be allowed by the administrator and approved by the judge of the court.

**New Hampshire.**—Administration is granted in the following order: To the executor named in the will; to the widow or next of kin or such suitable person as they may nominate; to a devisee or a creditor; to such other person as the judge may think proper. The preference remains 30 days, when administration is granted to any of the above classes applying. When one of the above parties is a non-resident, he will not be appointed unless other circumstances make him a proper person. Within 10 days of his appointment, the administrator shall post notices in the town where the decedent lived. Within 3 months, he must file an inventory. Estates of deceased persons are applied to the satisfaction of claims, as follows: Expenses of administration; funeral expenses; widow's allowance; debts; support of children under 7 years of age, unless the estate is insolvent; legacies. These are preferred claims to be paid in full, and, if anything remain after payment of the above, the expenses of the last illness must be paid in full before the payment of other debts. No suit can be begun within 1 year of the grant of administration; payment must be demanded within 1 year, and suit must be begun within 2 years. All estates may be administered as if insolvent, and a commissioner appointed by the judge of probate to examine and allow claims; all claims must be presented to him within a period of time fixed by the judge, usually 6 months; an appeal lies to the supreme court from the decision of such commissioner. Executors and administrators are required to file an account within 1 year.



**New Jersey.**—Letters are granted by the surrogates, judges of the orphans' court, and the ordinary. Administration issues in the following order: To the widow; to such person as she may nominate; to the residuary legatee, next of kin, or a legatee; to creditors. Wills cannot be probated until 10 days after the death of the testator. Non-resident executors must give bond. The order of payment of debts is: Expenses of administration; burial expenses; expenses of last illness, and judgments with levy and other liens created during the decedent's lifetime. Claims against the estate must be exhibited under oath to the executor or administrator within 9 months from the date of the rule to limit creditors made by the orphans' court, and claims not so exhibited may be barred. No action, except for funeral expenses, can be maintained against an administrator or an executor within 6 months from the date of the letters.

**New Mexico.**—Administration is granted: To the surviving husband or wife; to any person entitled to a share of the estate; if none of these apply within 30 days, to a creditor. The debts are paid in the following order: Expenses of administration; expenses of last sickness and funeral; allowances by the court for the maintenance of the widow and the children under 15 years of age; claims entitled to preference by the laws of the United States; taxes; all other debts *pro rata*. Claims must be stated in detail, sworn to, and filed with the probate court for allowance within 1 year from the grant of letters, and 5 days' notice of the hearing of such claim must be given to the executor or administrator.

**New York.**—Letters testamentary and of administration are issued by the surrogate. Before they issue, all heirs and legatees are cited by the surrogate to appear and object, if they desire. The right to administer is in the following order: Husband or widow; children; father; mother; brother; sister; grandchildren; other next of kin entitled to share in the estate; the executor or the administrator of a sole legatee taking the whole estate. If no one entitled to the administration accept, a creditor may receive letters, or if no creditor apply, any suitable person. If the person entitled be a minor, administration must be granted to his guardian, if competent. The public administrator in the city of New York has preference over creditors and other persons. In other counties, the county treasurer shall have preference next after creditors over all other persons. Executors may be required to give bond if objection be made, and the surrogate deem it best to protect the estate, and where he is a non-resident. The testator may, by provision in his will, relieve even a non-resident executor from giving bonds. On application of the executor or administrator, the surrogate appoints two parties to appraise the personalty of the estate. After 5 days' notice given of the appraisement, the executor or administrator must make a correct inventory of the assets, and file the

same within 3 months from the date of the letters. The order for the payment of debts is as follows: Debts entitled to a preference under the laws of the United States; taxes assessed on the property of the deceased prior to his death; judgments docketed and decrees entered against the deceased according to the priority thereof, respectively; all other debts. Claims against the estate are proven by a sworn copy of the claim stating the amount. They may be filed with the executor or administrator at any time, until he procures an order for an advertisement limiting the time. If the claim be rejected, the claimant must sue the executor or administrator within 6 months after the rejection. No legacy shall be paid until after 1 year, unless it be directed otherwise by the will. At the end of 1 year, the executor or administrator must file an account.

**North Carolina.**—The clerk of the superior court grants letters in the following order: The surviving husband or wife; next of kin in the order of their degree, if they be of different degrees; if of equal degree, to one or more of them in the discretion of the court clerk; the most competent creditor; any other competent person. There may be in every county a public administrator, to be appointed by the clerk, who may obtain letters of administration if the party entitled do not appear in 6 months, or if the person entitled renounce. A resident of another state may act if he be not an alien. Personal representatives must publish a notice to the creditors to present their claims within 20 days from their qualification. The order of payment of debts is: Debts which by law have a special lien on property to an amount not exceeding the value of said property; funeral expenses; taxes; debts to the United States and to the state of North Carolina; judgments of any court of competent jurisdiction, within the states, docketed and in force to the extent of which they are a lien on the property of the deceased at his death; wages due to any domestic servant, or mechanical or agricultural laborer, and claims for medical services, for a period of not more than 1 year next preceding the decedent's death; all other debts and demands. Creditors should present their claims within 12 months; but if they do not, they may still recover, if the representative still have funds of the estate applicable to the payment of such debts, or they may recover from the heirs, devisees, or legatees, who have received any property of the decedent.

**North Dakota.**—Letters of administration are granted to the surviving husband or wife, or to a competent person named by either; to children; father or mother; brothers; sisters; grandchildren; next of kin; creditors. The executor or administrator must make and return a separate inventory of all property exempt from execution in the hands of the decedent. They must, immediately after appointment, publish notice to the creditors of the decedent requiring all persons having claims against the estate to present them within 6 months.



All claims arising upon contracts, whether the claim be due, not due, or contingent, must be presented within the time limited in the notice; and any claim not so presented is barred forever; provided, however, that when it is made to appear by the affidavit of the claimant that he had no notice by reason of being out of the state, it may be presented later. The executor or administrator must immediately deliver to the widow or husband, or children, the following property, which is exempt: All family pictures; a pew or any other sitting in any house of worship; a lot or lots in any burial ground; the Family Bible and all school books used by the family, and all other books used as part of the family library, not exceeding in value \$100; all wearing apparel and clothing of the decedent and his family; the provisions for the family necessary for 1 year's supply, either provided or growing, or both, and fuel necessary for 1 year.

**Ohio.**—Administration is granted to residents in the following order: The surviving husband or widow; one or more of the next of kin, or jointly to the husband or wife, and one or more of such next of kin; one or more of the principal creditors; other suitable person. Foreign executors and administrators, residing in this state, or having assets or property in the same, have the same powers and are subject to the same control as if appointed by the laws of this state. The inventory and appraisal of the estate shall be filed within 3 months after appointment. The administrator or executor must publish a notice of his appointment for 3 consecutive weeks in a newspaper of general circulation. Debts are paid in the following order: Expenses of the funeral, of the last sickness, and of administration; the allowance made to the widow and children for their support for 12 months; debts entitled to a preference under the laws of the United States; public rates and taxes, and sums due the state for duties on sales at auction; wages, not exceeding \$150, for labor performed within 12 months preceding decedent's death; debts due to all other persons. Claims against the estate, verified by oath, should be filed within 1 year from the appointment. If the administrator doubt the justice of any claim presented to him, he may agree in writing to refer the matter to three disinterested parties as arbitrators, to be appointed by the proper court, who shall determine whether or not such claim be just. If any claim be disputed or rejected by the administrator, and be not so referred, it is the duty of the claimant to bring an action against the administrator within 6 months after such dispute or rejection, or be barred from collecting the same. Executors and administrators must file an account within 18 months after appointment, and every 12 months thereafter.

**Oklahoma.**—Non-residents may be appointed executors or administrators, but must have a resident agent. A married woman may be an executrix, but not an administratrix. The notice to creditors

must be published once a week for 4 weeks. Debts are paid in the following order: Funeral expenses; expenses of last illness; funds necessary for the support of the family for 90 days; any taxes; debts having a preference under the laws of the United States or this territory; judgments rendered against the deceased in his lifetime which are liens upon his property, and mortgages in the order of their date; demands or claims presented to the executor or administrator as provided below; all other demands. Creditors must present claims within 6 months after the first publication, when the estate exceeds in value \$5,000, and within 4 months when it does not. A contingent obligation or a claim not due shall be presented within 1 month after it has become due or absolute. Executors and administrators may be required to account to the court at any time.

**Oregon.**—Administration is granted in the following order: To the widow, or the next of kin, or both, in the discretion of the court; to one or more of the principal creditors; to any other suitable person. Creditors must present their claims within 6 months of the publication of notice. Claims not so presented will be deferred until all claims presented within said 6 months are paid. Actions against the administrator or executor may be begun after 6 months.

**Pennsylvania.**—The register of wills grants letters testamentary and of administration. The register may join with the widow in the administration such relation or kindred as he shall judge will best administer the estate, preferring always, of those entitled, such as are in the nearest degree of consanguinity with the decedent, and also preferring males to females; and in case of the refusal or incompetency of every such person, the register will grant administration to one or more of the principal creditors applying therefor, or to any fit person at his discretion. In case of the estate of a married woman, the husband is entitled to administration exclusively. In granting administration *cum testamento annexo*, the right belongs to those entitled to the residue under the will. In case any of the parties entitled be a minor, letters will be granted to some fit person during such minority. Should a testator appoint as executor a person who is a non-resident of the state, he must give a bond with two or more local securities. Foreign executors or administrators have no power over decedents' property situated in Pennsylvania, except to transfer public loans of the state, or of the city of Philadelphia, and the stocks and loans of banks and incorporated companies, and to collect interest and dividends thereon. The inventory must be filed in the register's office 30 days after the grant of letters. Notice to creditors must be published once a week for 6 weeks. The order of payment of debts is: Funeral expenses, medical services rendered during the last illness, and household servants' wages (not exceeding 1 year); rents (not exceeding 1 year); all other debts, except debts due the state, which are last



paid. No executor or administrator shall be compelled to pay any debt of the decedent, except such as are by law preferred in the order of payment to rents, until 1 year be fully elapsed from the granting of the administration of the estate. Executors and administrators must give a just account and settlement in 1 year, or when thereunto legally required. No administrator shall be compelled to make distribution of the goods of an intestate, until one year be fully expired from the granting of the administration. Legacies, if no time be limited for the payment thereof, shall in all cases be deemed to be due and payable at the expiration of 1 year from the death of the testator.

**Rhode Island.**—Administration is granted to the widow or the next of kin, if fit persons, as of right; but this right cannot be asserted by a non-resident. A non-resident may, however, be appointed, if the court think fit. The husband is entitled to administer on his wife's intestate estate and to retain the surplus after paying the debts. If the parties entitled to administration neglect to claim it, or decline, any suitable person may be appointed. A copy of a foreign will, with a copy of the probate thereof, under the seal of the foreign court of probate, may be recorded in the probate court of any town where the testator had estate, with the same effect as if originally proved and allowed in such court, and letters will be granted to the executor named in the will or to an administrator with the will annexed. Executors and administrators cannot be sued within 6 months, nor after the expiration of 2 years subsequent to the giving of legal notice of appointment by advertisement. If the estate be insolvent, claims must be presented to commissioners, appointed by the probate court, within the time specified in their commission, and in the notice—usually 6, 12, or 18 months. If a claim be rejected by the commissioners, it may be determined by suit. Action may be brought by attachment of the real estate of the deceased in the hands of the heir or devisee, if the personal property be insufficient to pay the debts; such action must be brought within 2 years and 6 months after the probate of the will or the grant of letters of administration. If the heir or devisee have, in the meantime, alienated such real estate, he becomes liable for its value in a personal action.

**South Carolina.**—Administration is granted in the following order: To the surviving husband or wife; to the child or children, or their legal representatives; to the father or mother; to brothers and sisters; to the next of kin, in the discretion of the probate judge, as shall be entitled to a share of the estate; to the largest creditor or creditors. Foreign wills are made of force in this state by filing exemplified copies. Executors need give no bond. Debts are paid in the following order: Funeral and testamentary expenses, including medical services during last illness; debts due the public; rents not

exceeding 1 year; all other debts equally. Creditors holding securities realize out of them first.

**South Dakota.**—A married woman, or a surviving partner, may not be appointed to administer. The marriage of an administratrix extinguishes her authority. Administration is granted in the following order: To the surviving husband or wife, or some competent person at his or her request; to the children or a child; to the father or mother; to the brothers; the sisters; to the grandchildren; the next of kin entitled to a share of the estate; to the creditors; to any person legally competent. Debts are paid in the following order: Funeral expenses; expenses of last illness; debts preferred by United States laws; judgments and mortgages; all other demands. Notice to creditors must be published as often as the judge shall direct, but not less than once a week for 4 weeks. Claims must be presented within 6 months from the publication of notice, when the estate exceeds in value \$5,000; otherwise, within 4 months. If the executor or administrator, or the judge, refuse or neglect to indorse allowance or rejection of the claim for 10 days after presentment, such refusal or neglect is equivalent to a rejection on the tenth day. When a claim is rejected, action must be brought within 3 months thereafter, if it be then due; or within 2 months after it becomes due.

**Tennessee.**—If the husband or widow, or the next of kin, or the creditors, fail to apply for letters within 6 months, letters are granted to the public administrator. Preferred debts are funeral expenses, expenses of administration, and debts due the state. The representative is not liable to suit within 6 months after his appointment. All claims must be presented and sued upon, in the case of resident claimants, within 2 years and 6 months from the date of qualification of the representative, or in the case of non-resident claimants, 3 years and 6 months; otherwise, they are barred. If the personal assets of the deceased be insufficient to pay his debts, the administrator or the executor should, within 6 months after qualification, suggest the insolvency of the estate and take the necessary steps to sell the real estate to pay the debts. If the assets exceed \$1,000, proceedings may be taken in the chancery court; if under \$1,000, in the county court.

**Texas.**—Where the husband or the wife dies intestate, leaving no child or children, and no separate property, the common property passes to the survivor, charged with the debts of the community, and no administrator is required. Letters are granted within 4 years after the death of decedent to the persons qualified under the law, in the following order: Executor named in the will; surviving husband or wife; principal devisee or legatee of the testator, and any devisee or legatee of the testator; next of kin of the deceased; creditors of the deceased, or any person of good character residing in the county.



The order of payment of the debts is: Funeral expenses and expenses of last sickness; expenses of administration and those incurred in the preservation, safe keeping, and management of the estate; claims secured by mortgages or other liens, so far as the same can be paid out of the proceeds of the property subject thereto; all claims legally exhibited within 1 year after the original grant of the letters; claims legally exhibited after the lapse of 1 year from the original grant. The widow and minor children, having no separate property adequate to their maintenance, are allowed out of the assets sufficient for their maintenance for 1 year, not to exceed \$1,000, to be paid by the administration out of the first money coming to his hands, or out of property at its appraised value to be selected by the widow and the guardian of the minor children.

**Utah.**—Letters of administration are granted by the district court, other things being equal, in the following order: To the surviving husband and wife, or some competent person on the request of such person; child or children; father or mother; brothers or sisters; grandchildren; next of kin; creditors; any other competent person. A surviving partner cannot be appointed administrator of his deceased partner's estate. The debts must be paid in the following order: Funeral expenses; expenses of last illness; allowance to decedent's family; liens on the decedent's property; all other debts. Creditors must present their claims within 10 months after the publication of notice, if the estate exceed \$10,000 in value, and within 4 months if it do not.

**Vermont.**—Administration is granted: To the widow, or the next of kin, or to both, or to such person as they may request; if the widow or the next of kin be incompetent, letters may be granted to one or more of the principal creditors, and in case no creditor accept, then letters may be granted to such persons as the probate court may select. The order of payment of debts is: Necessary funeral expenses; expenses of last sickness; taxes; debts due to the estate; debts due to the United States; debts due to other creditors. Claims against the estate are presented to commissioners appointed by the probate court for the county where the deceased resided, who give notice of the time and the place where they will adjust claims. The commissioners make returns to the probate court.

**Virginia.**—The circuit and corporation courts have jurisdiction of the probate of wills and granting administration of decedent's estates, except in the city of Richmond, where the jurisdiction is in the chancery court. Administration is granted: To the surviving husband or wife; next, to any other of the distributees, in the discretion of the court; if none of the distributees apply within 30 days, then to a creditor or any other person; if at any time an estate be for

2 months without an executor or an administrator, the court may, on the application of any person, order the sheriff to administer the same. The court appoints appraisers who appraise the personal estate of the decedent coming to the hands of the executor or administrator. Their appraisement is recorded, and shall be *prima-facie* evidence of the value of the estate, and that it came into the hands of the personal representative. The order of payment of debts is: Expenses of last illness, to physicians not exceeding \$50, and druggists the same; debts due to the United States and Virginia; taxes; fiduciary debts; all other demands ratably, except, lastly, voluntary obligations. The payment of legacies or the distribution of the personal estate cannot be compelled until after 1 year from the qualification of the representative, and only then when the legatee or distributee gives a refunding bond.

**Washington.**—Letters testamentary or of administration are granted: To the surviving husband or wife, or other person at the request of either; the next of kin as follows: Child or children, father or mother, brothers or sisters, grandchildren; to creditors. If the decedent were a member of a copartnership, the partnership property is separately administered upon by the administrator or executor, unless the surviving partner shall within 5 days from the filing of the inventory apply for the administration thereof. If the parties entitled to administration fail to apply for 40 days, or waive their right in writing, the court may appoint any suitable person. Debts must be paid as follows: Funeral expenses; expenses of last sickness; debts having a preference by the laws of the United States; taxes, or any dues to the state; judgments rendered against the deceased in his lifetime on which execution might have issued at the time of his death, and mortgages; all other demands. Claims against the estate not presented within 1 year after the first publication of administration notices are barred. Within 6 months after his appointment, and thereafter whenever required by the court, the executor or administrator must render an account of the money received and expended, and of all claims presented against the estate, with the names of the claimants; and a full account of his administration must be rendered at the expiration of 1 year from the time of his appointment.

**West Virginia.**—The surviving husband or wife, or the distributees, have the first right to administer. If none such apply for appointment within 30 days, then any creditor can qualify. If no one qualify within 3 months, then the sheriff of the county may be appointed upon the motion of any person interested. The order of payment of debts is: Funeral expenses, and expenses of administration; debts due the United States; taxes and levies assessed; debts due from the deceased in any fiduciary capacity; all other debts (except voluntary obligations); voluntary obligations. If a partner, the surviving partner winds up the partnership.



**Wisconsin.**—Administration is granted: To the widow, or the next of kin, or both, or to their fit nominee; if the former neglect to apply within 30 days after the intestate's death, to one or more of the principal creditors; any suitable person. After 60 days, other application failing, one having a cause of action against the estate may apply. A foreign executor or administrator, upon filing an authenticated copy of his letters in any county court, can exercise the same power as though appointed here. In insolvent estates, all other debts must be paid *pro rata*, after the full payment of administrative, funeral, and last sickness expenses, and debts preferred by the United States. Before paying other debts, certain allowances are set aside for the widow and minor children. The time for the presentation of claims against estates is fixed by the county court, and varies from 6 to 12 months, and under special circumstances may be extended to 2 years.

**Wyoming.**—Administration is granted: To the surviving husband or wife, or to those who are entitled to the distribution of the estate, or to one or more of them; to any person considered most suitable by the court. A non-resident cannot be appointed administrator; but a non-resident executor named in a will may be appointed, who must appoint an agent in the state upon whom orders and process can be served. Claims, to receive the full benefit of the estate, must be presented within 6 months from the grant of letters; if not presented within 1 year, they are barred.

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### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Where a person dies intestate as to personal property, or having appointed an executor resident out of the province, administration may be granted to the official administrator. Claims against the estate should be presented to the executor or administrator, verified by affidavit. One year must elapse from the decedent's death before the personalty may be distributed.

**Manitoba.**—Executors are not required to give security, but an administrator must furnish two sureties, each in double the value of the estate. An executor or administrator may pay any claim on any evidence he deems sufficient; but it is usual to advertise for claims to be presented, verified by affidavit.

**New Brunswick.**—The inventory of the estate must be filed within 3 months. All debts rank alike judgments having no preference. An account of the administration must be rendered to the court within 18 months.

**Nova Scotia.**—Administration is granted: To the widow, or the next of kin, or both; if they do not apply within 10 days after the

return day of the citation, to one or more of the principal creditors. Executors or administrators shall, by advertisement in the Royal Gazette newspaper, call upon all persons having claims against the estate to file the same within 1 year from the date of the advertisement, duly attested to by the party, or, in his absence from the province, by his agent, before the judge or registrar of probate for the county, or a justice of the peace.

**Ontario.**—Both real and personal property devolve upon the administrator. All debts are paid equally, judgments having no preference.

**Quebec.**—If no executor have been appointed by the will, then the execution of the will devolves upon the universal legatee, if one be named, or upon all the legatees, if no universal legatee be appointed. In case of intestacy, the parties entitled to the succession represent the deceased, and claims against the estate should accordingly be presented to them. The executor has a year and a day to carry out the provisions of the will.



## DEEDS

A deed is the common, or usual, form of instrument employed to convey the title to real property from one person to another. Certain statutory requirements of such deeds are herein shown. In many states, a deed of quitclaim and release will pass all the estate that could lawfully be conveyed by a deed of bargain and sale, as in Florida, Indiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Oregon, Wisconsin, and Wyoming. In most states, it is not necessary to use the word *heirs* or other words of inheritance to convey a fee, but every conveyance passes the whole interest of the grantor unless it be expressly stated otherwise; as in Alabama, Arkansas, California, Colorado, Georgia, Idaho, Florida, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Oregon, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming. In many states, statutes have provided short forms of deeds which may be used, but are not exclusive of the common-law forms. (See *Book of Forms*, under the title Conveyances.) The common-law requirement of sealing is dispensed with in the following states, except as to corporations: Arkansas, California, Colorado, Idaho, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, Pennsylvania, Tennessee, Texas, Utah, Washington, and Wyoming. Where seals are still required, a scroll is usually sufficient by way of a private seal. Witnesses to the execution of the deed, usually two in number, are required, in some states, for the validity of the deed; and in other states, they are required only in order to prove the deed where it is not acknowledged; but in some other states, witnesses are not required even for proof.

A deed must also be either acknowledged by the grantor, or proved by witnesses, in order that it may be recorded or registered. In Maryland, New Mexico, Ohio, and Washington, a deed must be acknowledged whether witnessed and proved or not. Generally, however, a deed may be admitted to record, even if not acknowledged, if proved by attesting witnesses, before some of the officers qualified to take acknowledgments. In Connecticut, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, Rhode Island, Vermont, and Wisconsin proof by witnesses is allowed only when the grantor is dead, or refuses or fails to acknowledge; and notice of an intent to prove and time of hearing must be given to the grantor, if

living and within the state, by 7 days' personal service with a copy of the deed annexed, in Maine, Massachusetts, Michigan, Minnesota, Vermont, and Wisconsin or by 15 days' service in New Hampshire, or by service of a warrant of examination of such grantor in Rhode Island. A deed without witnesses may also be proved in some states by proving the handwriting of the grantor, as in Illinois, Maryland, Mississippi, North Carolina, Pennsylvania, and Rhode Island. If the grantor be dead or have failed to acknowledge, and subscribing witnesses also have died, proof may be usually made by proof of the genuineness of the grantor's signature and of that of at least one subscribing witness.

A deed of real estate to be wholly valid must be recorded in the office for the recording of deeds in and for the county where the real estate is situated, or, in Connecticut, Rhode Island, and Vermont, in the office of the town clerk of the town where the real estate is situated; otherwise, it is void as against a purchaser or encumbrancer for value without notice whose deed is duly recorded first. In Arkansas, Delaware, Florida, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, North Carolina, Tennessee, Texas, Virginia, and West Virginia, if not recorded it is void as against all creditors of the grantor, or as against a subsequent judgment creditor in Minnesota and New Jersey, or against subsequent purchasers or encumbrancers for value without notice even though their deeds be not recorded, in Arkansas, Florida, Indiana, Louisiana, and Ohio. In North Carolina and Ohio, no notice will supply the place of registration. Unless otherwise hereinafter specified, deeds are valid as to subsequent purchasers for value without notice and encumbrancers only from the date of record.

**Alabama.**—Deeds of real estate must be signed at the foot by the grantor, and attested by one, or if the grantor cannot write, by two, witnesses who can write. If the deed be acknowledged, no witnesses are required; but deeds executed by husband and wife jointly must be acknowledged and attested by two witnesses. If a deed be acknowledged and recorded within 12 months after its execution, it may be used as evidence without further proof of execution, but it operates as notice only from the time of record. A seal is not necessary.

**Arizona.**—No witnesses are necessary, unless the deed be not acknowledged, in which case two witnesses are necessary.

**Alaska.**—Deeds executed within the district, of lands or any interest in lands therein, shall be executed in the presence of two witnesses, and acknowledged before any judge, clerk of the district court, notary public, or commissioner within the district. If any deed shall be executed in any state, territory, or district of the United States, such deed may be executed according to the laws of such state, territory, or



district. When a married woman residing within the district shall join with her husband in a deed of conveyance of real property situated within the district, she shall acknowledge that she executed such deed freely and voluntarily.

**Arkansas.**—No witnesses are necessary when the deed is acknowledged. If not acknowledged, the deed is good if attested by two witnesses, who may prove the execution before any officer authorized to take acknowledgments. If the grantor be unknown to the officer or court, his identity must be established by affidavits indorsed on the conveyance. (See *Book of Forms*.)

**California.**—A fee simple title is presumed to be intended to pass by any grant of real property, unless it appear from the grant that a less estate was intended. Neither witnesses nor seal are necessary. To entitle a deed to be recorded, it must first be acknowledged or proved. (See *Book of Forms*.)

**Colorado.**—No witnesses are necessary unless the deed be not acknowledged. The wife need not join in a deed of the husband's property, except of the homestead. Unacknowledged deeds are deemed notice from the date of filing, but they cannot be read in evidence unless subsequently acknowledged or proved.

**Connecticut.**—Deeds must be signed, sealed, and acknowledged by the grantor, and attested by two witnesses. The word *seal* or the letters *L. S.* are either of them equivalent to a seal. The wife need not join in a conveyance of the husband's real estate. The husband need not join in the wife's deed if the marriage was subsequent to April 20, 1877. If the grantor be dead, or have failed to acknowledge, proof may be made by an attesting witness. Deeds must be recorded in the office of the town clerk of the town where the land lies.

**Delaware.**—Deeds must be under seal, attested by one witness. A scroll answers for a seal. Deeds must be recorded within 3 months after the sealing and delivery, to avail against creditors, mortgagees, or *bona-fide* purchasers without notice.

**District of Columbia.**—One witness is sufficient. A scroll seal is customary. The wife may release her dower by uniting with her husband in the deed, or by a separate deed.

**Florida.**—Deeds must be under seal, and signed, sealed, and delivered in the presence of at least two attesting witnesses. Any scroll written or printed is deemed to be a seal. A form of warranty deed is prescribed by statute. (See *Book of Forms*.)

**Georgia.**—Deeds of real estate must be executed in the presence of two witnesses, one of whom shall be an officer authorized for that

purpose. A scroll seal is sufficient. Where a deed is attested by two witnesses, but neither of them is such an officer as is required by law, and it is not acknowledged, it may nevertheless be admitted to record on being properly proven by one or more of the subscribing witnesses. This proof is required to be by affidavit, in writing, made before any such officer, testifying to the execution of the deed and its attestation according to law. Provision is also made for proving the deed by the affidavit of a third person to the fact, and to the genuineness of the handwriting of the subscribing witness, where the subscribing witness is dead, or lunatic, or removed without the state. Deeds are to be recorded in the office of the clerk of the superior court of the county where the land lies.

**Idaho.**—Interests in land are conveyed by the grantor or his attorney, in fact. The grantor's signature to a deed must be witnessed by one person at least, but two witnesses usually attest it. A scroll seal is commonly used.

**Illinois.**—There are forms of warranty and quitclaim deeds authorized by statute. A scroll seal is sufficient, and no witnesses are necessary. The wife must join in a release of the homestead. (See *Book of Forms.*)

**Indian Territory.**—All lands are held in common by the Indian tribes, except in the Creek and Seminole nations. In these two nations the lands have been allotted to the citizens thereof, each acquiring 160 acres, 120 of which can be disposed of by them after 5 years, or before that time with the approval of the secretary of the interior. The other 40 acres can be disposed of by them only after 21 years' possession. Town property may be conveyed by ordinary deeds of conveyance.

**Indiana.**—A short form of warranty deed is prescribed by statute. No subscribing witnesses are required. They must be acknowledged or proved, according to the rules of the common law, and recorded in the recorder's office of the county where the lands are situated within 45 days after their execution. (See *Book of Forms.*)

**Iowa.**—Witnesses and private seals are not necessary. If the grantor die before making acknowledgment, or if he cannot be produced, or if he refuse to make the acknowledgment, proof of the due execution and delivery of the deed or other instrument may be made before the court or officer authorized to take acknowledgments by one competent person other than the vendee or other person to whom the instrument is executed.

**Kansas.**—Short forms are provided for both warranty and quitclaim deeds. No witnesses or seals are necessary. (See *Book of Forms.*)



**Kentucky.**—Two subscribing witnesses are required, unless the deed be acknowledged. Deeds, other than those of married women, need not be acknowledged, if proved as follows: The proof of two subscribing witnesses, or the proof of one subscribing witness, who shall also prove the authority of the other; or proof by two witnesses that the subscribing witnesses are both dead or both out of the state, or that one is dead and the other so absent; and also like proof of the signatures of the grantor and one of the subscribing witnesses. Deeds must be recorded within 60 days after execution to be valid as to third parties. The source of title must be stated in deeds to authorize recording, under penalty of \$25 to \$50. (See *Book of Forms*.)

**Louisiana.**—Authentic deeds are such as are passed before a notary and two male witnesses over 14 years of age, or three, if the grantor be blind. Private deeds are such as have not the above formality, and must be proven. As to deeds acknowledged in foreign countries, no witnesses are necessary. (See *Book of Forms*.)

**Maine.**—Deeds of real estate must be under seal, and, to convey a fee, must include the word *heirs*. A scroll is not a seal. No witnesses are required. No interest greater than a tenancy at will can be created except by writing. Leases for more than 7 years must be recorded.

**Maryland.**—Every deed of real estate must be signed and sealed by the grantor or bargainor, attested by at least one witness, and acknowledged by the grantor. A scroll seal is sufficient. A deed must be recorded within 6 months from date, in the county or Baltimore city where the land lies. Any deed, not at first recorded, is valid when finally recorded against every one except persons with prior recorded deeds who have purchased in good faith and for value; if the grantee took possession under the unrecorded deed, from the time of such possession; but as against all persons who have become creditors before recording without notice of such deed, it takes effect only as a contract for the conveyance of land. Leases for more than 7 years must be recorded. (See *Book of Forms*.)

**Massachusetts.**—Deeds must be signed and sealed by the grantor or his duly authorized agent. The seal must be a wafer or other tenacious substance, except that an impression of the official seal of a corporation is sufficient. Witnesses are not required, although usual. (See *Book of Forms*.)

**Michigan.**—Deeds executed within this state must be signed, sealed, witnessed by two witnesses, and acknowledged or approved. A scroll seal is sufficient. No covenant is implied in a conveyance of real estate. A husband need not join in the conveyance of his wife's property. The acknowledgment of a married woman is taken in the same manner as if she were *sole*.

**Minnesota.**—Deeds of real estate must be signed, sealed, and acknowledged, attested by two witnesses. A scroll is sufficient. (See *book of Forms*.)

**Mississippi.**—No witnesses are necessary to the execution of a deed, but if it is to be proved by witnesses instead of being acknowledged, there should be two subscribing witnesses. The conveyance can be proved by one of them. *Warrant* in a deed means full warranty; *warranty specially* means a limited warranty. No seal is required. Deeds may be drawn in the simplest form. (See *Book of Forms*.)

**Missouri.**—Deeds of corporations must be under seal, but those of persons do not require seals. Witnesses are not required. (See *Book of Forms*.)

**Montana.**—Witnesses are not necessary if the deed be acknowledged; proof of the execution thereof may be made before any officer qualified to take acknowledgments by the testimony of the subscribing witnesses, or where the subscribing witnesses are dead and cannot be had, by the evidence of the handwriting of the party, and of at least one subscribing witness. The acknowledgment of a married woman is taken in the same manner as if she were *sole*.

**Nebraska.**—One witness of the execution of a deed is required. If the grantor died before acknowledgment, or if his attendance cannot be procured, or he refuse to acknowledge the deed, proof of execution and delivery may be made by any competent subscribing witness before any officer authorized to take the acknowledgment. If all of the subscribing witnesses shall be dead or out of the state, such death or absence is first to be proved, then execution of the deed may be proved before such officer by proving the handwriting of the grantor and of any subscribing witness to the deed. A certificate of the officer, in accordance with the above, entitles the deed to be recorded. Any person interested in a deed that is not acknowledged may file with the register of deeds of the county where the land lies a copy of the deed, compared with the original by the register of deeds, and this, for a space of 30 days thereafter, will have the same effect as the recording of the deed if such deed be recorded within that time duly approved.

**Nevada.**—No witnesses are required. A scroll seal is sufficient.

**New Hampshire.**—Deeds to convey real estate must be signed, sealed, attested by two witnesses, acknowledged, and recorded. A scroll seal is not sufficient; a wafer is necessary. Leases for more than 7 years should be recorded in the same manner as deeds.

**New Jersey.**—Deeds follow the common-law form. A scroll seal is sufficient; also one witness. The word *heirs* is not necessary



attested by two witnesses, and proof made by them of the execution thereof. No particular form is required, but the language must convey the intention of the parties.

**Texas.**—The husband may alone convey his separate estate and the community property, except the homestead. Two witnesses are required if the deed is to be proved by witnesses, either one of whom may prove it for registration, except in case of a deed by a married woman, who must acknowledge. No seal or scroll is required.

**Utah.**—A short form of a deed has been prescribed by statute. A deed must be attested by at least one witness. No seal is required.

**Vermont.**—All deeds must be signed and sealed in the presence of two witnesses. A scroll seal is not sufficient. Deeds must be recorded in the clerk's office of the town where the realty is situated.

**Virginia.**—Deeds must be under seal, but a scroll is sufficient if used as a seal. They must be acknowledged or proved by two attesting witnesses. Leases of realty for more than 5 years must be recorded. (See *Book of Forms*.)

**Washington.**—Two witnesses are necessary. No seal is required.

**West Virginia.**—Deeds must be under seal, but a scroll may be used by way of a seal. They must be acknowledged, or proved for record, by two subscribing witnesses.

**Wisconsin.**—Deeds must be under seal, but a scroll or *L. S.* is sufficient. Two witnesses are required. An unrecorded deed is void as against a subsequent *bona-fide* purchaser or encumbrancer for value without notice, but not as against a subsequent judgment or attaching creditor. (See *Book of Forms*.)

**Wyoming.**—Deeds must be executed in the presence of one subscribing witness. A scroll is sufficient.

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## PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Conveyances of land must be under seal. One witness is sufficient. To be registered, the deed must be acknowledged by the grantor or proved by a witness. A short form of deed is provided by statute.

**Manitoba.**—A deed must be signed and sealed. A subscribing witness must make an affidavit that he was personally present, and saw the instrument signed, in order that the deed may be registered. The Torrens system of registration is in force. Deeds are usually prepared in duplicate, one copy being registered, and the other returned with a certificate of registration of the duplicate indorsed thereon.

**New Brunswick.**—Deeds must be under seal, and acknowledged or proved by the oath of a subscribing witness.

**Nova Scotia.**—Deeds must be executed under seal and in the presence of a witness. They may be proved within the province by the oath of a witness taken before an officer qualified to take acknowledgments; out of the province, by such proof, or acknowledgment by the grantors.

**Ontario.**—Deeds must be under seal, executed in the presence of one witness. Proof is made by affidavit of execution by the witness. Deeds are executed in duplicate for purposes of registration. Lands in Ontario may be within the Lands Titles System of transfer, which is by certificate, instead of deed, on which certificate are indorsed all transfers. (See *Book of Forms*.)

**Quebec.**—Deeds affecting the title to land held under the French system must be passed before a notary public; where the lands are held in free and common socage, deeds must be passed either before a notary or before the witnesses, one of whom makes affidavit to the signatures. Deeds executed by parties residing in the United States are valid if executed according to the laws of the locality where made. Deeds must be recorded within 30 days from execution; otherwise, they do not take effect as to third parties until registered.



to convey a fee. A deed must be recorded within 15 days from date, or it is void as to *bona-fide* purchasers without notice. (See *Book of Forms*.)

**New Mexico.**—No witness is necessary except where the maker signs by a mark. Joinder of wife in conveyance of husband's separate realty is not necessary.

**New York.**—The form of deeds is prescribed by statute. The common-law form will convey a good title, but an extra fee of \$5 for recording is chargeable. A deed must be acknowledged by the grantor, or proven by a subscribing witness. It is provided that the private seal of a person other than a corporation shall consist of a seal affixed, or the word *seal*, or the letters *L. S.*, opposite the signature. (See *Book of Forms*.)

**North Carolina.**—Every conveyance of land must be acknowledged or proved, and registered in the county where the land lies. Deeds must be acknowledged or proved by an attesting witness before some one of the officers qualified to take acknowledgments. A married woman must acknowledge her conveyance of real estate separate and apart from her husband. A seal is not required for the conveyance of land. (See *Book of Forms*.)

**North Dakota.**—No witnesses are necessary. The wife need not join in conveyance of her husband's realty except the homestead.

**Ohio.**—Two witnesses must attest the signing and subscribe their names to the attestation, and the grantor must acknowledge. Private seals have been abolished. The form of deeds may be such as has been authorized by statute. No notice will supply the registration of a deed. (See *Book of Forms*.)

**Oklahoma.**—There is a statutory form of deed provided, but any good form properly executed is sufficient. No witnesses are required.

**Oregon.**—Two subscribing witnesses are necessary. A scroll seal is sufficient. Deeds must be recorded within 5 days after the execution and delivery, or they will be void against subsequent purchasers in good faith, without notice, and for value, who may first record their conveyances.

**Pennsylvania.**—Deeds of real estate must be under seal, but a scroll seal is sufficient. To pass a fee, the deed must purport to convey an estate to the grantee and his heirs. Two witnesses are desirable, although not necessary. Deeds must be acknowledged or proved. When the grantor is dead or cannot appear, the execution of the deed may be proved by witnesses before any officer qualified to take acknowledgment of such deed. In case the witnesses are also dead or

cannot be had, the deed may be admitted to record upon proof before the above officers of the handwriting of a witness, or where such proof cannot be made, the proof of the handwriting of the grantor. Such proof by two or more witnesses may also be received where there is no subscribing witness to the deed. Deeds must be recorded within 90 days after the execution; otherwise, they are void as to subsequent *bona-fide* purchasers for a valuable consideration, without notice. If executed outside the state, 6 months' time is allowed. In Philadelphia county, deeds must be recorded, but must be registered in the registry bureau before recording, to facilitate the tracing of title and the designation of the owner. In counties having a population of 500,000 or upward, exclusive of Philadelphia, all deeds must be registered with the county commissioners of their respective counties before they can be recorded. A married woman need not acknowledge her deed apart from her husband. (See *Book of Forms*.)

**Rhode Island.**—A written conveyance of land shall be a deed, though no seal be affixed thereto. One witness is customary. Real-estate records are not kept by county officers, but by the town clerk, or city clerk, or recorder of deeds in each town and city.

**South Carolina.**—Deeds of real estate must be under seal, but a scroll is sufficient. They must be executed in the presence of two subscribing witnesses. To pass a fee they must contain the words *heirs and assigns*. Before any deed can be recorded, it is necessary for one of the subscribing witnesses, if within the state, to go before a trial justice or notary public; if without the state, before a commissioner of deeds of South Carolina, or notary public; consul or vice-consul of the United States; or commissioners appointed under *dedimus*, and make affidavit that he saw grantor sign, seal, and as his act and deed deliver that deed, and that he, with the other subscribing witness (naming him), witnessed the execution thereof. He must sign the affidavit, and the trial justice, notary, or commissioners must certify it. It is not certain that any other mode of proof will be sufficient. All deeds or conveyances of lands, including all leases for a longer period than 1 year, shall be valid, so as to affect from the time of such delivery or execution the rights of subsequent creditors or purchasers for valuable consideration without notice, only when recorded within 40 days from the time of such delivery or execution in the office of the register of mesne conveyances of the county where the property is situated. (See *Book of Forms*.)

**South Dakota.**—No witnesses are necessary. A wife need not join in a conveyance of the husband's realty, except of the homestead. Leases for a term longer than 1 year must also be recorded.

**Tennessee.**—No witnesses are necessary where the deed is acknowledged by the grantor. If not acknowledged, it must be



attested by two witnesses, and proof made by them of the execution thereof. No particular form is required, but the language must convey the intention of the parties.

**Texas.**—The husband may alone convey his separate estate and the community property, except the homestead. Two witnesses are required if the deed is to be proved by witnesses, either one of whom may prove it for registration, except in case of a deed by a married woman, who must acknowledge. No seal or scroll is required.

**Utah.**—A short form of a deed has been prescribed by statute. A deed must be attested by at least one witness. No seal is required.

**Vermont.**—All deeds must be signed and sealed in the presence of two witnesses. A scroll seal is not sufficient. Deeds must be recorded in the clerk's office of the town where the realty is situated.

**Virginia.**—Deeds must be under seal, but a scroll is sufficient if used as a seal. They must be acknowledged or proved by two attesting witnesses. Leases of realty for more than 5 years must be recorded. (See *Book of Forms*.)

**Washington.**—Two witnesses are necessary. No seal is required.

**West Virginia.**—Deeds must be under seal, but a scroll may be used by way of a seal. They must be acknowledged, or proved for record, by two subscribing witnesses.

**Wisconsin.**—Deeds must be under seal, but a scroll or *L. S.* is sufficient. Two witnesses are required. An unrecorded deed is void as against a subsequent *bona-fide* purchaser or encumbrancer for value without notice, but not as against a subsequent judgment or attaching creditor. (See *Book of Forms*.)

**Wyoming.**—Deeds must be executed in the presence of one subscribing witness. A scroll is sufficient.

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## PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Conveyances of land must be under seal. One witness is sufficient. To be registered, the deed must be acknowledged by the grantor or proved by a witness. A short form of deed is provided by statute.

**Manitoba.**—A deed must be signed and sealed. A subscribing witness must make an affidavit that he was personally present, and saw the instrument signed, in order that the deed may be registered. The Torrens system of registration is in force. Deeds are usually prepared in duplicate, one copy being registered, and the other returned with a certificate of registration of the duplicate indorsed thereon.

**New Brunswick.**—Deeds must be under seal, and acknowledged or proved by the oath of a subscribing witness.

**Nova Scotia.**—Deeds must be executed under seal and in the presence of a witness. They may be proved within the province by the oath of a witness taken before an officer qualified to take acknowledgments; out of the province, by such proof, or acknowledgment by the grantors.

**Ontario.**—Deeds must be under seal, executed in the presence of one witness. Proof is made by affidavit of execution by the witness. Deeds are executed in duplicate for purposes of registration. Lands in Ontario may be within the Lands Titles System of transfer, which is by certificate, instead of deed, on which certificate are indorsed all transfers. (See *Book of Forms*.)

**Quebec.**—Deeds affecting the title to land held under the French system must be passed before a notary public; where the lands are held in free and common socage, deeds must be passed either before a notary or before the witnesses, one of whom makes affidavit to the signatures. Deeds executed by parties residing in the United States are valid if executed according to the laws of the locality where made. Deeds must be recorded within 30 days from execution; otherwise, they do not take effect as to third parties until registered.



### DESCENT AND DISTRIBUTION OF THE PROPERTY OF INTESTATES

Unless the rule as given be specified as applying to realty, or personalty, only, it applies to both. The interest of the widow or surviving husband is first considered. Dower and curtesy are used as at common law, unless otherwise specified, except that birth of issue is not a requisite for tenancy by curtesy. When the decedent leaves neither children nor issue of deceased children, the provisions are various. In many jurisdictions, the widow or the surviving husband takes one-half the real and personal estate; in some he or she takes all. On the failure of issue and certain kin, the widow or the surviving husband usually takes the whole estate, after the payment of debts and other charges. In all jurisdictions, the real and personal property of an intestate, subject to the provisions as to the rights of the widow or surviving husband, if any, descends to and is distributed among the legitimate children of the decedent living at his or her death, and the issue of deceased children *per stirpes*, that is, by right of representation of their parent or ancestor, in equal shares. Illegitimate children may inherit from the mother, and in several jurisdictions it is provided that illegitimate children may inherit from an intestate father, by whom they have been recognized. In all the states, posthumous children of the intestate inherit as if in being at his death. In many states, if a child die under age, being unmarried or without issue, all the estate descending by gift, devise, or descent from either parent to such child, goes to the other children of the same parent and the issue of such as are dead *per stirpes*, unless all be in the same degree, then *per capita* (by the head), share and share alike, as in Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, New Hampshire, North Dakota, Oregon, South Dakota, Utah, Washington, and Wisconsin. In Connecticut, Florida, Kentucky, Louisiana, and Virginia, the estate in such a case goes to the parent or the kindred of such parent, if any, otherwise to the kindred of the other parent. When all the children are dead, the grandchildren and the issue of deceased grandchildren take, in all jurisdictions. In the following states they take *per stirpes* in all cases to the remotest degree: Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Tennessee, Vermont, and Wyoming. But in the following, when all such grandchildren or other lineal descendants

are in the same degree, they take in equal parts *per capita*, otherwise *per stirpes*: Arizona, California, Florida, Idaho, Indiana, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

If there be no descendants living, the estate both real and personal generally passes to the father, or to the father and mother equally. The provisions are extremely varied, and are given hereinafter for each jurisdiction. On failure of lineal descendants of the intestate, if there be neither widow, surviving husband, father, nor mother, the property descends in equal shares to the brothers and sisters of the intestate, and the children of those deceased *per stirpes*. In many jurisdictions, however, the brothers and sisters are preferred to the father and mother in the course of descent of realty; and in others, if there be no father, the brothers, sisters, and mother share equally.

On failure of the above classes, the property descends to the next of kin of the intestate, in equal degree, equally, except that when there are two or more in the same degree, those claiming through the nearest ancestor are to be preferred. Generally, the degree of kindred is reckoned according to the rules of the civil law. Among collaterals, a distinction is frequently made between those of the whole blood and those of the half blood, so that the half blood inherit only half as much as the whole blood; but where all the collaterals are of the half blood, the ascending kindred, if any, have double portions, as in Colorado, Florida, Kentucky, Louisiana, Missouri, Texas, Virginia, West Virginia, and Wyoming. There is frequently a provision by which real estate, which came to the intestate by descent, devise, or gift from a parent or other kindred, will descend only to the next of kin of the intestate of the blood of the person from whom such estate came. In default of all the above classes, the estate, both real and personal, escheats to the state, or, in England and Canada, to the crown.

**Alabama.**—The widow has a life estate in one-third of all the lands of which the husband was seized in fee during marriage. The husband has a life estate in the realty of the wife, unless he have been divested of all control over it by the chancery court. If there be one child surviving, the widow is entitled to one-half the personalty; if more than one child, and not more than four, to a child's part; if more than four children, to one-fifth part. If there be neither children nor their issue, and the estate be solvent, the widow has a life estate in one-half the realty; if the estate be insolvent, she has an estate in one-third only. If there be no lineal descendants, the widow takes all the personalty. On failure of children, grandchildren, father and mother, and brothers and sisters, the whole estate goes to the widow or husband. Subject to these rights of husband or wife, and subject also to



the payment of debts and charges against the estate, the real estate descends to the children of the decedent or their descendants in equal parts, descendants taking by right of representation. On failure of lineal descendants, if both father and mother be living, the estate goes to them in equal parts. If there be but one surviving parent, then one-half to such surviving parent, and the other half to brothers and sisters of the intestate, or their descendants, in equal parts. If there be neither brothers nor sisters nor their descendants, and if there be but one surviving parent, then the whole to such surviving parent. If there be neither children nor their descendants, nor father nor mother, neither brothers nor sisters, nor there descendants, and neither husband nor wife, the estate goes to the next of kin to the intestate in equal degree in equal parts. If there be none of the above classes capable of inheriting, the estate escheats to the state.

**Alaska.**—The real property of an intestate descends as follows:

1. In equal shares to his or her children and to the issue of any deceased child by right of representation; and if there be no child of intestate living at the time of his or her death, to all his or her other lineal descendants; and if all such descendants are in the same degree of kindred to the intestate, they take equally; otherwise, by representation.
2. If intestate leave no lineal descendants, to his wife; or if intestate be a married woman, to her husband; and if intestate leave no wife nor husband, to his or her father.
3. If intestate leave no lineal descendants, neither husband nor wife, nor father, such real property descends in equal shares to his brothers and sisters, and to the issue of any deceased brother or sister by right of representation; but if intestate leave a mother, she takes equal share with such brothers and sisters.
4. If intestate leave no lineal descendants, neither husband nor wife, nor father, brother, nor sister, such real property descends to his mother, to the exclusion of the issue of deceased brothers and sisters.
5. If intestate leave no lineal descendants, neither husband nor wife, nor father, mother, brother, nor sister, such real property descends to his next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor are preferred.
6. If intestate leave one or more children, and the issue of one or more deceased children, and any of such surviving children die under age without having been married, all such real property that came to such deceased child by inheritance from such intestate descends in equal shares to the other children of such intestate and to the issue of any other children who have died, by right of representation. But if all the other children of intestate be dead, and any of them have left issue, such real property so inherited by such deceased child descends to all the issue of such other children of the intestate in equal shares,

if they are in the same degree of kindred to such deceased child; otherwise, they take by right of representation. 7. If intestate leave no lineal descendants or kindred, such real property escheats to the United States.

**Arizona.**—The widow or husband has a life estate in one-third the realty, and takes one-third the personalty absolutely, if there be children; and of the community property one-half goes to the survivor. If there be neither children nor their descendants, the widow or husband takes all the realty for life, and all the personalty, as well as community property, absolutely. On failure of kindred, the widow or husband takes all the realty in fee. If there be neither husband nor wife, the property shall descend in coparcenary to male or female, the first to the descendant's children or their descendants; if there be none of these, to the father and the mother equally, if both survive; if only one survive, then in two equal portions, one to the survivor, and one to the brothers and sisters of the deceased, and to their descendants; but if neither brother nor sister survive, then the whole to the surviving father and mother. If none of the above survive, then the estate is divided into two moieties, one to the paternal, and the other to the maternal, kindred, as follows: To the grandfather and the grandmother equally; if only one survive, then in two parts, one to the survivor and one to the descendants of the other; if there be no other such descendants, then the whole to the surviving grandparent; if no grandparent survive, then the whole to their descendants, passing to lineal ancestors and their descendants. Among collateral kindred, the half blood inherit half as much as the whole blood.

**Arkansas.**—If there be children of the decedent, the widow takes one-third of the realty for life, and one-third of the personalty absolutely. If there be neither children nor their descendants, the widow takes one-half of the realty, and one-half of the personalty absolutely, if the estate be solvent, otherwise one-third of each, but she takes ancestral estates for life only. If there be no kindred capable of inheriting, the widow or husband takes all the estate. Subject to the payment of debts and the rights of the widow, the property descends to the children or their descendants equally. Children, but no other kin, born after the death of the decedent, shall inherit equally with other children. Bastards inherit from the mother, and may transmit in her line collaterally. Marriage of parents, or recognition of bastards as their children by parents, renders them legitimate. If there be neither children nor their descendants, then the estate goes to the father, then to the mother, as to personal property absolutely, as to real estate for life with remainder to collateral kindred. If there be no parents, the estate goes to the brothers and sisters and their descendants in equal parts, and in default of the above, to the grandfather, grandmother, uncles and aunts and their descendants, and so on in



other cases without end, passing to the nearest lineal ancestor and their children and their descendants in equal parts. If kindred in the ascending or descending line be of kin in unequal degrees, they take *per stirpes*. Kindred of the half blood inherit equally with the full blood. As to real estate, if it comes by the father or mother, the kindred of the line who would inherit by the foregoing rules take to the exclusion of the kindred by the other parent from whom the estate did not come. An estate, in default of a father and a mother, and any nearer kindred, goes to the brothers and the sisters of the father to the exclusion of the like kindred of the mother. If there be no such kindred of the father, then to the like kindred of the mother. In default of all the above classes, the estate escheats.

**California.**—The widow succeeds to one-half of the community property, that is, all property acquired by husband or wife during the marriage, which does not include property acquired by either husband or wife by gift, bequest, devise, or descent, which is separate property. Dower interest does not exist. The separate estate is distributed as follows: If the decedent leave only one child or the lawful issue of one child, in equal shares to the husband or widow and the child, or issue of such child; if more than one child, or one child living and the lawful issue of one or more deceased children, one-third to the husband or widow, and the remainder in equal shares to the children, and to the lawful issue of any deceased child, *per stirpes*. If lineal descendants be in the same degree of relationship to the decedent, they share equally, otherwise *per stirpes*. If there be no issue, the separate estate passes, one-half to the husband or widow, and the other half to the father and the mother in equal shares, or, if one be dead, to the survivor; if there be neither father nor mother, then that one-half goes in equal shares to the brothers and the sisters, or to their representatives. If there be neither issue, father, mother, brothers, nor sisters capable of inheriting, the whole estate passes to the widow or husband. If there be neither issue, nor husband nor wife, the estate goes to the father and the mother, or the survivor of them; or if both be dead, then in equal shares to the brothers or sisters, and to the children of any deceased brother or sister *per stirpes*. On failure of all of the hereinbefore stated classes, the estate passes to the next of kin in equal degree; or if none, it escheats.

**Colorado.**—If there survive children or their descendants, the widow or surviving husband takes one-half the estate, and the children or their descendants take the other half. If there be neither children nor their descendants, the widow or husband takes all the estate, subject, however, to the payment of debts. If there be neither widow nor surviving husband, the children or their descendants take, such descendants taking *per stirpes* to the remotest degree. If there be none of the aforesaid, the estate passes to the father; next to the mother;

then to the brothers and the sisters, and their descendants; to the grandfather; to the grandmother; to the uncles and aunts and their descendants; and to the nearest lineal ancestors.

**Connecticut.**—To the widow whose marriage took place prior to April 20, 1877, there shall be distributed and set out one-third part of the personal estate forever, and, if there be neither children nor any legal representatives of them, one-half of the personal estate forever, and, if she shall not have been otherwise endowed before marriage, one-third part of the real estate to her during life. By a statute which took effect April 20, 1877, and which applies only to marriages since that date, the surviving husband or wife is entitled to the use for life of one-third of all the property, real and personal, legally and equitably owned by the other at the time of death after the payment of debts, such third to be set out by distributors, in real or personal property, or both, according to the judgment of the distributors. This right cannot be defeated by will. If there be no will, the survivor takes such third absolutely, and, if there be neither children nor legal representatives of children, the survivor takes the whole of the estate of the decedent absolutely, to the extent of \$2,000, and one-half of the remainder absolutely, instead of one-third. After the rights, shares, and interests of such husband or wife are distributed and set out, all the residue of the estate shall be distributed in equal proportions, according to its value at the time of the distribution, among the children and the legal representatives of any of them who may be dead; except that children or other descendants who shall have received estate by advancement of the intestate in his lifetime, shall themselves or their legal representatives have only so much of the estate as will, together with said advancement, make their share equal to what they would have been entitled to receive had no such advancement been made. Children born before marriage whose parents afterward intermarry and recognize them as their own shall be deemed legitimate and inherit equally with other children. If any minor child die before marriage without issue and before any legal distribution of the estate, the portion of such deceased child shall be distributed as if such child had died in the lifetime of such parent. If there be neither children nor any legal representatives of them, then, after the portion of the husband and wife, if any, is distributed or set out, the residue of the estate shall be distributed to the parents or parent; or, if none, equally to the brothers and sisters of the intestate of the whole blood and those who legally represent them; if there be no such kindred, then to the parents or parent; if there be no parent, then equally to the brothers and sisters of the half blood and those who legally represent them; if there be neither parent and neither brother nor sister, nor those who legally represent them, then equally to the next of kin in equal degree, kindred of the whole blood to take in preference to kindred of the half



blood in equal degree, and no representatives to be admitted among collaterals after the representatives of the brothers and sisters. All the real estate which came to the decedent by descent, gift, or devise from any kinsman shall belong equally to the brothers and sisters of the intestate and those who legally represent them of the blood of the person or ancestor from whom such estate came or descended; and in case there be neither brothers nor sisters, nor legal representatives as aforesaid, then equally to the children of such person or ancestor and those who legally represent them; and if there be neither such children nor their representatives, then equally to the brothers and sisters of such person or ancestor and those who legally represent them; and, if there be none such, then it shall be divided in the same manner as other real estate. When such intestate shall be a minor, and shall not leave any lineal descendants nor brother nor sister of the whole blood nor any descendants of such brother or sister, nor any parent, such estate shall be distributed equally to the next of kin to the intestate of the blood of the person or ancestor from whom such estate came or descended; and, if there be no such kindred, then to the next of kin of the intestate generally, and in ascertaining the next of kin in all cases the rule of the civil law shall be adopted.

**Delaware.**—If there be children, the widow has dower, or the husband has tenancy by curtesy, in the realty as at common law; and of the personalty, the widow has one-third absolutely, and the husband, the whole. If there be neither children nor issue thereof, the widow has one-half the realty for life, and one-half the personalty absolutely, or the husband has one-half the realty for life. If there be neither children nor issue, nor next of kin, the widow gets all the personalty as well as the realty. Subject to the rights of the widow or surviving husband, real estate descends in coparcenary in the following manner: To the children in equal shares, and the issue of any such deceased *per stirpes*. If there be neither children nor their descendants, the estate passes to the brothers and sisters in equal shares, and the lawful issue of any deceased brother or sister *per stirpes*. Brothers and sisters of the whole blood and their issue shall be preferred to those of the half blood and their issue. In default of the foregoing, the estate passes to the father, next to the mother, or, if none, to the next of kin. Personalty is distributed in the same manner as realty.

**District of Columbia.**—The widow has dower in the real estate of her deceased husband, and the surviving husband has his estate by curtesy in the realty of the wife; while of the personal estate, if there be children, the widow takes one-third, and the husband is entitled to all. If there be neither children nor their issue, but there be next of kin, the widow takes one-half the personal estate, and the next of kin the other half; if there be no next of kin, the widow takes all. If there be no kindred, the widow or husband takes all the realty.

Subject to the rights of husband or wife, the realty descends as follows: To the child or children and their descendants, if any, equally; if there be none, and the estate descended to the intestate on the part of the father, then to the father; if there be no father living, then to the brothers and sisters of the intestate of the blood of the father and their descendants equally; if there be none of these, then to the grandfather on the part of the father if living, otherwise to his descendants in equal degree equally, and, if there be none such, then to the father of such grandfather and his descendants, and so on, passing to the next lineal male paternal ancestor and his descendants without end. If there be no paternal ancestor or descendant from such, then to the mother of the intestate and her descendants or the maternal ancestors and their descendants in the same manner as directed as to the paternal ancestors and their descendants. If the estate descended on the part of the mother and there be no issue, then to the mother or the brothers and sisters of the intestate of the blood of the mother and their descendants in equal degree equally, and if none, then to the grandfather on the part of the mother and so on, passing to the next maternal ancestor and his descendants and in default of these then to the paternal kindred. If the estate were acquired by purchase, it descends successively, if there be neither child nor descendant, to the brothers and sisters of the whole blood and their descendants in equal degree equally, to the brothers and sisters of the half blood and their descendants, to the father, to the mother, to the grandfather on the part of the father or his descendants in equal degree, and to the grandfather on the part of the mother or his descendants. In the distribution of the personal estate, there is no distinction between the whole blood and the half blood, and, subject to the rights of the husband or widow, it is distributed to the next of kin.

**Florida.**—If there be children or their issue surviving, the widow may elect to take a child's part of the estate within 12 months after the granting of letters; otherwise she will be confined to her dower. The husband and the children inherit equally the property of the deceased wife. In case there be neither children nor their issue, the widow or husband becomes the sole heir at law of the entire estate. If there be neither widow, nor husband, nor issue, the estate goes to the father; next in equal shares to the mother, brothers and sisters, and their issue *per stirpes*; and failing these, the estate is divided into two moieties, one of which shall go to the paternal, and one to the maternal, branch, passing first to the nearest lineal male and then to the lineal female ancestors and the descendants of each. Half bloods inherit only one-half as much as whole bloods.

**Georgia.**—The widow may take dower of the realty, or share equally with the children, if any there be, in both personal and real estate, unless the shares exceed five, where the wife can take one-fifth.



The husband shares equally with the children in both realty and personalty. If there be neither children nor their issue, the widow or husband is sole heir of all property. The children inherit his property equally, and the descendants of deceased children take *per stirpes* to the remotest degree. Brothers and sisters inherit next after the foregoing classes. The half bloods on the paternal side inherit equally with the whole bloods. If there be neither brother nor sister of the whole blood, nor of the half blood on the paternal side, the half bloods on the maternal side inherit. Children or grandchildren of deceased brothers and sisters take *per stirpes*, but there is no further representation among collaterals. The father stands in the same degree and inherits equally with brothers and sisters; if there be no father, the mother stands in the same degree. In more remote degrees the paternal and maternal next of kin stand on equal footing, and the degrees of relationship are determined by the rules of the canon law as adopted in the English courts prior to July 4, 1776.

**Idaho.**—The widow takes half the common property; the other half goes to the husband's heirs. The husband takes all the common property without administration. Of all other property, if there be but one child or the issue of one child, the widow or husband, and the child or issue, take equally; if more than one child or the issue of more than one, the widow or husband takes one-third. If there be no issue, the widow or husband takes one-half, and the father and the mother one-half, of all the estate; or if there be neither father nor mother, brothers and sisters take half. If there be neither father, mother, brother, nor sister, the widow or husband takes the whole estate. If there be children, subject to the rights of husband and wife as above, they and their issue inherit all the estate. On failure of these the estate goes to father and mother; next to brothers and sisters; next to other kindred. On failure of kindred, the estate escheats to the state for the support of the common schools.

**Illinois.**—If there be a child or children, or the issue of such, the widow or husband takes a life estate in one-third of the realty, and one-third of the personalty absolutely. If there be neither child nor issue of such, the widow or husband takes one-half the realty in fee, and all the personalty absolutely. If there be no kindred, the widow or husband takes the whole estate. Subject to the rights of husband and wife, the property descends and is distributed to the children or the issue of children, such issue taking *per stirpes* to the remotest degree. If there be no children, the estate passes to the parents, brothers, and sisters of the deceased and their descendants in equal parts, each of the parents taking a child's part; or if one of the parents be dead, the survivor takes a double portion; if there be no parent living, then to the brothers and sisters and their descendants. On failure of all the aforesaid, the estate passes to the next of kin in equal degrees, computing

by the rules of the civil law. There is no representation among collaterals, except with the descendants of brothers and sisters of the intestate, nor is there any distinction between kindred of the whole and of the half blood. In default of kin, the estate escheats to, and vests in, the county in which the real and personal estate, or the greater part of it, is situated.

**Indian Territory.**—Property descends subject to debts and the widow's dower: To the children and their descendants equally; if there be no children, to the father and the mother; if neither father nor mother, to brothers and sisters, and their descendants equally; if there be neither children nor their descendants, nor father, mother, brothers, sisters, nor their descendants, to the grandfather, grandmother, uncles, aunts, and their descendants in equal proportion, and so on in other cases without end, in equal parts. Relations of the half blood inherit the same as the whole blood of equal degree.

**Indiana.**—The widow takes one-third of all of the real estate in fee, free from all demands of creditors; provided, however, that, where the value of the realty exceeds \$10,000, the widow shall take one-fourth only as against creditors, and where it exceeds \$20,000, one-fifth. One-third of the personalty also goes to the widow, subject, however, to its proportion of the debts of the estate. Where one child only with the widow survives, they each take one-half. A second or subsequent wife surviving, but without children, takes a life estate only, as against children by a former wife. The surviving husband takes one-third of the real estate subject to its proportion of the wife's debts contracted before marriage. Except the interest of widow or husband, the property descends to the children in equal portions, the issue of deceased children and other descendants representing their ancestors if in unequal degrees; but, if in equal degrees, such descendants take *per capita*. Illegitimate children inherit from the mother, and from the father, if he recognize them and there be neither legitimate children, nor brothers and sisters. If there be neither children nor issue of such, one-half the estate goes to the father and the mother as joint tenants, or to the survivor, and the other half to the brothers and the sisters, and to the descendants of such as are dead, as tenants in common. If there be neither father nor mother, the brothers and sisters and the other descendants take the estate as tenants in common; or, *per contra*, the father and the mother as joint tenants, or the survivor. Kindred of the half blood inherit equally with those of the whole blood in property purchased by the ancestor; but the rule is otherwise as to property acquired by such ancestor by gift, devise, or descent.

**Iowa.**—One-third in value of all the legal and equitable estates in real property possessed by the husband during marriage shall be set



apart as the property of the widow in fee simple, together with one-third of the personal estate. The same share of the real and personal estate of a deceased wife shall be set apart to the surviving husband. If there be neither children nor issue of such, the widow or husband takes one-half, and the parents or parent one-half, of the estate. If both parents be dead, the portion which would have fallen to their share, or either of them, shall be disposed of in the same manner as if they had outlived the intestate and died in possession thereof, and so on through ascending ancestors and their issue. If there be no kindred, the whole estate goes to the widow or husband, or the heirs of such, if deceased. Subject to the interest of the widow or husband, all property of an intestate descends in equal shares to the children, or their issue *per stirpes*; if there be none such, then to the parents or the survivor of them. If both parents be dead, the estate shall be disposed of as indicated hereinbefore. If heirs be not thus found, the property shall escheat to the state.

**Kansas.**—If there be children, or their descendants, one-half in value of the estate not necessary for the payment of debts shall be set off as the absolute property of the widow or husband, and the other half to the children in equal shares. If there be no children, the widow or husband takes all. If there be neither widow nor husband, the children inherit equally, and the heirs of any child shall inherit his share in the same manner as if such child were living. Illegitimate children, who have been recognized generally and notoriously or in writing by the father, may inherit from him. If there be neither husband, nor widow, nor children, nor their issue, the estate goes to the parents or the survivor of them. If both parents be dead, the estate shall be disposed of in the same manner as if they, or either of them, had outlived the intestate, and died in the possession and ownership of the portion thus falling to them, and so on through ascending ancestors and their issue. If there be no kindred, the estate escheats to the county where the administration is had.

**Kentucky.**—The widow or husband takes one-third of the realty for life, and one-half of the personalty absolutely. If there be no kindred, the widow or husband takes all of the realty in fee, and all of the personalty absolutely. The children inherit equally, and their descendants *per stirpes*. If there be neither children nor their issue, and if both parents be living, each takes one-half; if only one parent be living, that parent takes the whole. If both parents be dead, the brothers and sisters take; but if there be none of the foregoing, one half of the estate goes to the paternal kindred, the other half to the maternal kindred. Collaterals of the half blood shall inherit only half as much as those of the whole blood. There are special rules as to the descent of real estate derived by gift, devise, or descent from one parent.

**Louisiana.**—Except the interest in the community property, the widow or husband takes no interest in the estate, either real or personal. The property descends first to the heirs of the body without distinction of sex or primogeniture, and though born of different marriages. Children and their descendants, and father and mother are forced heirs, in the sense that the law reserves a certain portion of the estate which cannot be willed away from them. If there be no lineal descendants, the estate passes, one-half to the father and the mother, and one-half to brothers and sisters, or descendants of these. If only the father or the mother survive, the collaterals inherit three-fourths of the estate; and among collaterals, beginning with first cousins, he who is in the nearest degree excludes all others; if there be several in the same degree, they share equally.

**Maine.**—The widow or husband takes one-third of the estate, free from the payment of debts, if there be issue. If there be no issue, the widow or husband takes one-half of the estate. If there be no kindred, the widow or husband takes all the personalty absolutely and all the realty in fee. Subject to the foregoing, the children, and the issue of deceased children, take the property equally *per stirpes*. If there be no issue, the estate goes to the father and the mother, if both be living; if only one survive, one-half to that parent and one-half to the brothers and the sisters. If there be none of the foregoing, the estate goes to the next of kin; or on failure of these, escheats to the state.

**Maryland.**—The widow or husband takes a life estate in one-third of the realty, and takes one-third of the personalty absolutely, in case the decedent leave children or descendants of deceased children. If there be no children, the widow or husband takes one-half of the personalty, besides the dower interest in the realty, and, if there be no kindred, the whole estate. Subject to the aforesaid interests, the property is divided among the children equally, and the descendants of deceased children *per stirpes* to the remotest degree. If there be no lineal descendants, the estate goes to the father; or if none, to the brothers and sisters and their descendants; or, if none of the latter, to the mother; and after that it passes to the collaterals in equal degree *per capita*.

**Massachusetts.**—If there be children or their issue, the widow may claim dower, and the husband curtesy, in the realty; and of the personalty the widow takes one-third and the husband one-half; or, they may waive the right of dower or curtesy, in which case, if there be no issue, the husband or widow takes \$5,000, one-half of the remaining personal property, and one-half of the remaining real property. If the personal property be insufficient to pay the \$5,000, the deficiency may be paid by a sale or mortgage of the real estate; if there be issue, the husband or widow takes one-third of the remaining property, real



and personal. If there be no kindred, the husband or widow takes all the realty in fee. Subject to the interests of widow or husband, and to the payment of debts, the property descends to and is distributed among the children in equal shares, and to the descendants of children *per stirpes* if they be in unequal degrees; but, if all be the same degree, *per capita*. If there be no lineal descendants, the estate goes to the parents in equal shares, and, if one be deceased, then to the survivor; if there be no parents, to brothers and sisters and their issue; or, if none of these survive, to the next of kin in equal degree; and failing all these, it escheats to the commonwealth.

**Michigan.**—If an intestate leave children or their issue, the widow has her dower of the realty; and of the personalty, the widow or husband takes one-third; but, if there be but one child or the issue of such child one-half. If there be no children or their issue, the widow or husband takes one-half the realty, while the other half goes to the father and mother; and of the personalty, the widow takes \$3,000 and one-half the balance, if any, and the husband takes merely the one-half. If there be neither descendants, father, mother, brothers, nor sisters, the widow or husband takes all the property real and personal. Subject to these interests and to the payment of debts, the property passes to the decedent's children, or to other lineal descendants, who take *per capita* if in the same degree, but otherwise *per stirpes*. If there be no descendants, the estate goes to the father and the mother in equal shares, or to the survivor, if one be dead. Next it passes to brothers and sisters and their descendants *per stirpes*; and, failing these, to the next of kin in equal degrees, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote. Degrees of kindred are computed according to the rules of the civil law. Kindred of the half blood inherit equally with those of the whole blood, unless the inheritance came to the intestate by descent, devise, or gift from an ancestor, in which case all who are not of the blood of such ancestor are excluded.

**Minnesota.**—A homestead descends, free from any testamentary disposition to which the husband or wife has not assented in writing, and free from all debts or claims upon the estate of the deceased, to the widow or husband for life; remainder to the child or children, if any; otherwise, to the widow or husband in fee. The widow or husband also is entitled in fee simple, or by such inferior tenure as the deceased was at any time during coverture seized or possessed, to one-third of all other lands of which the deceased was at the time seized or possessed, free from any testamentary disposition thereof which survivor shall not have assented to in writing, subject to payment of debts in proportion to the other real estate. If there be

children or their issue surviving, the widow or husband also takes one-third of the personalty after the allowance to the survivor and the minor children, and the payment of debts. If there be neither children nor their issue, the widow or husband takes the entire real and personal property. Subject to the aforesaid interests, the property descends to and is distributed among the children, and the descendants of such children, *per stirpes*. If there be no descendants, it passes to the father; if there be no father, to the mother; or, if there be neither father nor mother, to brothers and sisters in equal shares, or the descendants of brothers or sisters *per stirpes*. If there be none of the foregoing, the estate passes to the next of kin.

**Mississippi.**—The widow or husband takes a child's part of all property, if children of the decedent survive. All property may be disposed of by will, except that the husband or wife cannot be cut off unless he or she own property equal to one-half the other's estate. If there be neither children nor their descendants, the widow or husband takes all the property of the other. If the husband or wife make a will, without satisfactory provision for the other, where there are neither children nor descendants of children, the survivor may renounce the will, and will be entitled to an amount out of the estate of the testator which, if added to the estate of the survivor, will equal one-half of what the testator owned at the time of dying. Children share equally with the widow or husband in the property; but if there be neither widow nor husband they take all. Lineal descendants take *per stirpes* to the remotest degree. If there be no descendants, the property passes to the brothers and the sisters, and their descendants *per stirpes*; then to the father or the mother; then to the next of kin, according to the civil law. Except among brothers and sisters, there is no representation among collaterals.

**Missouri.**—The widow has a dower interest in her husband's realty, and of the personalty the widow or husband takes absolutely a share equal to that of a child, if there be any children. If she have a child or children by such husband living, the widow may elect, in lieu of dower, to be endowed absolutely of a share of the realty equal to a child's share, subject to the husband's debts. If there be neither children nor their descendants, the widow is entitled to all the real and personal estate which came to the husband in right of the marriage, and to all his personal estate which came to his possession with her written assent remaining undisposed of, and this without subjection to his debts; also, to one-half the real and personal estate belonging to the husband at the time of his death, absolutely, subject to the payment of his debts. When the husband dies, leaving a child or descendants, but not by his last marriage, his widow may, in lieu of dower, elect to take, in addition to her real estate, the personal property in possession of her husband that came to him in right of the wife by means of



the marriage or by her consent, in writing, subject to payment of the husband's debts. The husband, where there are no children, takes one-half the estate of the wife, subject to the payment of debts. If there be neither descendants, father, mother, brothers, nor sisters, the whole estate devolves upon the husband or widow. Subject to the payment of debts and to the interests of the widow or husband as aforesaid, all property descends to and is distributed among the children in equal shares, and their descendants, such descendants taking *per stirpes* if in unequal degree, but *per capita* if in equal degrees. If there be no descendants, the estate passes to the intestate's father, mother, brothers, and sisters, and their descendants, in equal parts. All of the previous classes failing, then to grandparents, uncles, and aunts, and their descendants in equal parts, and so on, passing to the nearest lineal ancestors and descendants in equal parts. Among collaterals, those of the half blood take only half as much as those of the whole blood; but if all such collaterals be of the half blood, they shall have whole portions, only giving to the ascendants double portions.

**Montana.**—If the intestate leave one child only, the widow or husband and the child take equal shares of the estate; and, if there be more than one child, the widow or husband has one-third, and the remainder goes in equal shares to the children. If there be neither children nor their issue, the widow or husband takes one-half, and the father one-half; if there be no father, the other half goes in equal shares to brothers, sisters, and mother. If there be neither descendants, father, mother, brothers, nor sisters, the widow or husband takes the whole estate. Subject to the interest of the widow or husband, if any, all property descends to and is distributed equally among the children, the descendants of any deceased children taking *per stirpes*. If there be several children and one die before coming of age and not having been married, such child's share shall descend in equal parts to the other children and their descendants. If there be no descendants, the estate passes to the father; if there be no father, in equal shares to brothers, sisters, and mother; if there be neither brothers nor sisters, to the mother to the exclusion of the issue of brothers and sisters; if there be neither mother nor father, to the brothers and sisters; if there be none of the foregoing, to the next of kin; or on failure of all such, the estate escheats to the state. In all the cases hereinbefore mentioned, the issue of deceased brother or sister inherits *per stirpes*.

**Nebraska.**—The widow has dower in the realty, while the husband has likewise a life estate in one-third the realty of his wife. If there be no children, the widow or husband of the intestate takes the estate for life; except in the case of the husband, if the wife shall have issue by any former husband, such issue shall take so much of the estate as has not come to her as a gift from her surviving husband,

discharged from the right of the said husband to hold any such real estate as tenant by curtesy. If there be no kindred surviving, the whole estate goes to the widow of the intestate. Except as hereinbefore stated, the property descends, subject to his debts, in equal shares to the children, and to their descendants *per stirpes* if they be in unequal degrees, but if they be in equal degrees, *per capita*. If there be one or more children, and any such shall die under age, not having been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, *per stirpes*. If there be no descendants, all the property goes to the father; if no father, to the brothers or sisters, and mother in equal shares; if no brother or sister, to the mother to the exclusion of the issue of brothers or sisters; if none of the foregoing be living, to the nearest of kin in equal degree, except that those claiming through the nearest ancestors shall be preferred to those claiming through an ancestor more remote; if there be no kindred, it escheats to the people of Nebraska.

**Nevada.**—The estate possessed at death descends or is distributed (subject to the payment of debts and the widow's or husband's dower or curtesy, and the payment of legacies, if any, and administration expenses) to the children and the issue of deceased children *per stirpes*, in equal shares. But if any such child die under age and unmarried or without issue, all the estate descending by gift, devise, or descent from either parent to such child goes to the other children of the same parent and the issue of such as are dead, *per stirpes*; but, if all such other children be dead, to the grandchildren or other issue *per stirpes*, or, if all be in the same degree to such deceased child, *per capita*. When all the children are dead the grandchildren and the issue of deceased grandchildren take *per stirpes*, to the remotest degree, in the same manner, unless they be in the same degree, when they take in equal parts *per capita*. The wife or husband takes one-third of the real estate remaining, after debts and charges are paid, in fee, or one-half if there were only one child surviving or leaving issue. Community property goes one-half to the surviving husband or wife, subject to the community debts; the other half to the legitimate issue of the body of the person deceased; if no issue, all goes to the surviving husband or wife. If there be no descendants living, the estate descends to the father, to the brothers and sisters, and descendants of deceased brothers and sisters *per stirpes*.

**New Hampshire.**—The widow is entitled to the homestead to the value of \$500, and to dower. By waiving dower and homestead and any provision of her husband's will in her favor, she may take one-third part of the real estate after the payment of debts and expenses of administration. Of the wife's realty, the husband has



tenancy by curtesy, if there be children born alive. The widow or husband is entitled, after the payment of debts and expenses of administration, to one-third the personalty. If there be no children, the widow is entitled to one-half the realty and one-half the personalty; and the husband is entitled during life to one-third of all the real estate the wife owned at her decease, and to one-half the personal estate. Where the amount of the estate, both real and personal, does not exceed the sum of \$3,000, the surviving husband or widow takes \$1,500, to the exclusion of collateral heirs, where there is no issue surviving. Except as aforesaid, the property goes to the children, the descendants of deceased children taking *per stirpes*. If there be no descendants, it goes to the father; if no father, to the mother, and brothers and sisters, and their representatives; if none of these, to the next of kin in equal degree in equal shares.

**New Jersey.**—Dower and curtesy exist as at the common law, except that the husband has no estate by curtesy initiate while the wife is living. If there be children, the widow takes one-third of the personalty, and if none, she takes one-half; while the husband in either event takes all. In default of kindred, the realty descends to the widow or husband in fee; and of the personalty, if there be no next of kin, one-half goes to the widow, and one-half for the use of the poor. Except as stated hereinbefore, the real estate descends to the children in equal shares and to their descendants *per stirpes* to the remotest degree. If there be no descendants, it descends to brothers and sisters of the whole blood and their issue *per stirpes*; next, to the father, unless the inheritance came from the mother by descent, devise, or gift; next, to the mother for life, with reversion in the next heirs; and failing these, to the brothers and sisters of the half blood and their issue *per stirpes*. In default of all the foregoing classes, realty descends to other kindred of equal degree, those of the blood of the ancestor from whom the land came being preferred. Personalty is distributed first equally among the children and their descendants, and failing these, to the next of kin.

**New Mexico.**—All property brought into the marriage community by husband or wife at the time of marriage, or afterwards acquired by him or her by inheritance, donation, or legacy, shall constitute his or her separate estate. All property acquired by the husband or wife, otherwise than as aforesaid, constitutes the acquest estate. Upon the death of either, the separate estate of the survivor belongs to him or her absolutely. If there be children, one-half of the acquest estate descends to the husband or widow absolutely; and the remainder of the acquest property and the separate estate descends as follows: One-fourth to the husband or widow, and the remainder in equal shares to the children. In case of the death of a child, his heirs inherit his portion in accordance with these rules, the same as if such

child had survived his parent. If there be no children, the whole estate goes to the surviving spouse. If there be neither widow nor husband, the children and their descendants inherit equally, descendants taking *per stirpes* if in unequal degrees, but *per capita* if in equal degrees. Where there are no legitimate children, illegitimate children who have been recognized by the father may inherit from him; and, if the recognition have been mutual, he or his heirs may inherit from them. If there be neither widow, husband, nor children or their issue, the property goes to the parents or the survivor thereof; if both be dead, then to the heirs of the said parent as if he or she had died possessed of the property; in default of the foregoing classes, to the heirs of the deceased husband or wife.

**New York.**—Of the realty, the widow has common-law dower, and the husband has curtesy in the property of which the wife dies seized. If there be children, the widow or husband takes one-third the surplus personalty; and, if there be no children, one-half. If there be neither children nor their issue, nor father, mother, brothers, sisters, nor their issue, the widow or husband takes all the surplus personalty. Subject to the rights of husband and wife, the real estate descends in equal shares to the children and their descendants, such descendants taking *per stirpes* if in unequal degrees, but *per capita* if in equal degrees. If there be no lineal descendants, the father inherits, unless the inheritance came on the part of the mother, and she be living; if she be dead, the father takes such inheritance for life, reversion to the brothers and sisters; and, if there be neither brothers, sisters, nor descendants of them, the father takes in fee; if the father be dead or cannot take because the inheritance came on the part of the mother, the mother takes, reversion to the brothers and sisters and their descendants, and if none, the mother takes in fee. If there be neither father nor mother, the estate descends to the brothers and sisters. If there be none, and, if the estate came on the part of the father, it descends to the father's brothers and sisters, and their descendants; if the estate came on the part of the mother, to the mother's brothers and sisters, and their descendants; and, if there be none such, to the father's brothers and sisters and their descendants. If the estate did not come on the part of either father or mother, to the brothers and sisters both of father and mother and their descendants. Collaterals, when all are of equal degree, take *per capita*; if of unequal degree, they take *per stirpes*. Subject to the payment of debts and to the share of the widow or husband, the personal estate is distributed equally to the children, and their issue; and failing these, to the next of kin in equal degree. Representation is admitted among collaterals in the same manner as in the descent of real estate.

**North Carolina.**—The widow has dower in the real estate and the husband has tenancy by curtesy. Of the personalty, if there be no



more than two children, one-third is distributed to the widow and all the residue equally among the children and such persons as legally represent such children who may be dead; if there be more than two children, the widow and all the children share alike. The husband takes all the personalty. If there be no children, one-half the personalty goes to the widow. If there be no heir or next of kin, the widow is entitled to all the real and personal estate. When any person shall die seized of an inheritance, not having devised the same, it shall descend according to the following rules: Real estate lineally descends to the issue of the person who died last seized, entitled or having an interest therein, but shall not lineally ascend, except as hereinafter stated, females shall inherit equally with males, and younger with older children; but, children advanced in real or personal estate must account for advancement or be excluded from sharing, the lineal descendants shall represent their ancestors, and stand in the same place as the person himself would have done had he been living; on the failure of lineal descendants, and when the inheritance has been transmitted by descent or derived by gift, devise, or settlement from an ancestor, the estate shall descend to the next collateral relations of the persons last seized who were of the blood of such ancestor; on the failure of lineal descendants, and when the inheritance has not been so transmitted or devised, or when the blood of such ancestor is extinct, the estate passes to the next collateral relations of the person last seized; collateral relations of the half blood shall inherit equally with those of the whole blood, and the degrees shall be computed according to the rules of the common law; a person dying, without issue, and leaving neither brother nor sister, nor issue of such, the father, if living, shall inherit, and if not, the mother; no inheritance shall descend to any person as heir of the person last seized, unless such person shall be in life at the death of the person last seized, or be born within 10 lunar months thereafter; when a person shall die leaving no heirs, the widow shall be deemed his heir; there is no distinction between aliens and citizens; aliens' heirs will not prevent other heirs, being citizens, from inheriting; illegitimate children shall inherit from their mother; illegitimate children may inherit from each other; legitimate children may inherit from them; when an illegitimate child shall die without issue, his mother shall inherit from him; every estate for the life of another not devised, shall be deemed an inheritance of the deceased owner; every person in whom a seizing is required shall be deemed to have been seized, if he may have had any right, title, or interest in the inheritance. The personal estate is distributed to the husband or widow, if any, in the manner hereinbefore indicated. Subject to these interests it is equally divided among the children and the descendants of any such deceased, and failing these to the next of kin.

**North Dakota.**—If there be only one child, or the lawful issue of one child, the property goes in equal shares to the widow or husband, and the child or the issue of such child. If there be more than one child, or one child living and the lawful issue of one or more deceased children, one-third goes to the widow or husband, and the remainder in equal shares to the children, and to the lawful issue of any deceased child *per stirpes*. \* If there be no children, and, if the estate do not exceed in value the sum of \$5,000, all the estate goes to the widow or husband; and of all property, whether real or personal, in excess of \$5,000 in value, one-half goes to the widow or husband, and the other half goes to the father, or if he be dead, to the mother. If there be neither descendants, father, mother, brothers, nor sisters, the whole estate goes to the widow or husband. If there be children, the estate is divided equally among the children, the descendants of any such children taking *per stirpes* if in unequal degrees, but *per capita* if in equal degrees. If there be no descendants, the estate goes to the father; if there be no father, to the mother; if no mother, to the brothers and the sisters equally, and to the children of any deceased brother or sister *per stirpes*; if there be none of the foregoing, and no widow or husband, the estate must go to the next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those claiming through the nearest ancestors must be preferred to those claiming through ancestors more remote.

**Ohio.**—The widow or surviving husband is entitled to an estate for life in all the real property. Of the personalty, if there be children, the widow or husband is entitled to one-half of the first \$400, and one-third of the remainder. Real estate which has come by descent, devise, or deed of gift from an ancestor shall descend and pass in the following order: To the children, or their legal representatives; if there be neither children nor their legal representatives living, the estate shall pass to and vest in the husband or wife, during his or her natural life; if such intestate leave neither husband nor wife, or at the death of the relict, the estate shall pass to and vest in the brothers and sisters of the intestate who are of the blood of the ancestor from whom the estate came, or their legal representatives, whether such brothers or sisters be of the whole or half blood of the intestate; if there be neither brothers nor sisters of the intestate of the blood of the ancestor from whom the estate came, nor their legal representatives, and the estate came by deed of gift from an ancestor who is living, the estate shall ascend to such ancestor; if the ancestor from whom the estate came be deceased, the estate shall pass to and vest in the children of the ancestor from whom the estate came, or their legal representatives; if there be no children of the ancestor from whom the estate came, or their legal representatives, the estate shall pass to and



vest in the husband or wife, relict of such ancestor, if a parent of the decedent, during the life of such relict; and on the death of such husband or wife, or if there be no such husband or wife, the estate shall pass to and vest in the brothers and sisters of such ancestors, or their legal representatives; and for want of such brothers and sisters, or their legal representatives, to the brothers and sisters of the half blood, or their legal representatives, though such brothers and sisters are not of the blood of the ancestor from whom the estate came; if there be no such half brothers and sisters, or their legal representatives, the estate shall pass to the next of kin of the blood of the ancestors from whom the estate came, or their legal representatives. All other property shall descend in the following order, subject to the rights of the widow or widower in the personal property, as stated hereinbefore: To the children of the intestate, or their legal representatives; if there be neither children nor their legal representatives, the estate shall pass to and be vested in the husband or wife, relict of such intestate; if such intestate leave neither husband nor wife, the estate shall pass to the brothers and sisters of the intestate of the whole blood, and their legal representatives; if there be neither brothers nor sisters of the intestate of the whole blood, nor their legal representatives, the estate shall pass to the brothers and sisters of the half blood and their legal representatives; if there be neither brothers nor sisters of the half blood, nor their legal representatives, the estate shall ascend to the father; if the father be dead, then to the mother; if the father and mother be dead, the estate shall pass to the next of kin, and their legal representatives, to and of the blood of the intestate. Any funds in the hands of any administrator, guardian, assignee, or trustee, which has arisen from the sale of real estate, which came to such intestate by descent, devise or deed of gift from an ancestor, shall descend in the order of descent prescribed for real estate, which has come to an intestate, by descent, devise, or deed of gift from an ancestor. When the relict of a deceased husband or wife shall die intestate, and without issue, possessed of any real or personal property, which came to such intestate from any former deceased husband or wife, by deed of gift, devise, or bequest, or by descent from such deceased husband or wife, who held not by descent, devise, or deed of gift, then such estate, real and personal, shall pass to and vest in the children of said deceased husband or wife, or the legal representatives of such children. If there be neither children nor their legal representatives living, then such estate shall pass and descend one-half to the brothers and sisters of such intestate, or their legal representatives, and one-half to the brothers and sisters of such deceased husband or wife from whom such personal or real estate came, or their personal representatives. When a person dies intestate and leaves neither children nor their legal representatives, the widow or widower shall be

entitled, as next of kin, to all the personal property which is subject to distribution upon settlement of the estate.

**Oklahoma.**—If an intestate leave but one child, the estate descends in equal shares to the widow or husband, and the child or the issue of such child; if there be more than one child, the widow or husband takes one-third. If there be no children, the widow or husband takes one-half the entire estate, and the other half goes to the father. Subject to the share of widow or husband, if any, all the property goes in equal shares to the children, or the issue thereof. If there be no lineal descendants, the estate passes to the father; next to brothers, sisters, or their children, and the mother, if any, equally; but if there be neither brothers nor sisters, the mother takes to the exclusion of the children of brothers and sisters.

**Oregon.**—The widow has an estate for life in one-half of the realty; while the husband has his tenancy by curtesy in all his wife's real estate. If there be children or their issue, the widow or husband takes one-half the personal estate. If there be neither children nor their descendants, the widow or husband takes the entire estate. Except as stated previously, property descends and passes first to the children in equal shares and the issue of any deceased children *per stirpes*. If there be no descendants, the estate passes to the father; or if none, to the brothers, sisters, and mother in equal shares, including the issue of a deceased brother or sister *per stirpes*. In default of brothers or sisters, the mother takes in preference to the issue of a deceased brother or sister. In the absence of the foregoing, the estate passes to the next of kin in equal degree, the nearest ancestor being preferred.

**Pennsylvania.**—Where an intestate shall leave a widow and issue, the widow shall be entitled to one-third part of the realty for the term of her life, and to one-third part of the personalty absolutely. In a similar case, the husband takes all the realty for life, and of the personalty a proportionate share with the surviving children, or the issue of deceased children. If there be a will and the husband elect to take against the will, and there be issue, he takes one-third the realty for life, and one-third the personalty absolutely; or he may take all the realty for life, and no personal estate. If there be no issue, but collateral heirs, the widow shall be entitled to one-half part of the realty for life, including the mansion house and buildings appurtenant thereto, and to one-half part of the personalty absolutely; and the husband takes all the realty for life, and all the personalty absolutely. If there be a will, and the husband elect to take against the will, there being no issue, he takes one-half the realty for life, and one-half the personalty absolutely. If there be no kin competent to take, the widow or husband takes all the real and personal estate absolutely. Subject to the



estates and interests of the widow or surviving husband, if any, the real estate shall descend to, and the personal estate not otherwise disposed of shall be distributed among, the children of the intestate equally, or other lineal descendants, such descendants if in unequal degrees taking *per stirpes*, but if in equal degrees *per capita*. In default of issue, and of surviving consort, the real estate passes to the father and the mother during their joint lives, and to the survivor for life, and the personal estate goes to the father and mother, or the survivor of them absolutely. If there be neither brothers nor sisters of the whole blood, nor their descendants, the father and mother, or the survivor, take a fee in the real estate if they be of the blood of the first purchaser. If there be neither father nor mother, or on their death, the real estate shall descend to the brothers and sisters of the whole blood, and the children or other descendants of deceased brothers or sisters of the whole blood *per stirpes*. If there be neither brothers nor sisters of the whole blood, nor their descendants, nor father or mother, such real estate shall descend to the brothers and sisters of the half blood, and their descendants. The personal estate not otherwise disposed of shall be distributed among the brothers and sisters and their issue without any distinction of blood. In default of all persons before described, the real and personal estate shall descend to and be distributed among the next of kin. Real estate is to vest only in persons of the blood of the ancestor or other relation from whom such real estate was derived. If any child shall have received advancement from the intestate either in real or personal property, only so much of the estate shall be allotted to such child as will make the shares of all the children equal. In default of all the classes mentioned, the property escheats to the commonwealth.

**Rhode Island.**—The widow is entitled to common-law dower in the husband's real estate, and the husband has his tenancy by curtesy in the real estate of the wife as at common law. As to the personal estate, the husband is entitled to administer the wife's estate without account; while the widow, if there be children or their issue, takes one-third; and if no children or their issue, she is entitled to one-half. If there be no kindred, the whole estate shall go to the widow or husband; and, if the wife or husband be dead, it shall go to his or her kindred, in the like course as if such wife or husband had survived the intestate and then died entitled to the estate. Subject to the interest of husband or widow, real estate descends in equal shares to the children or their descendants, the latter taking *per stirpes* to the remotest degree. If there be no children or their descendants, it descends to the father; if no father, to the mother, brothers and sisters, and their descendants. If there be none of the aforesaid, the estate descends in equal moieties to the paternal and maternal kindred, as follows: To the grandfather; if no grandfather, then to

the grandmother, uncles, and aunts on the same side or their descendants *per stirpes*; if neither grandmother, uncles, aunts, nor their descendants, then to the great-grandfathers or great-grandmothers, if there be any; if no great-grandfather, then to the great-grandmothers, or great-grandmother, if there be but one, and the brothers and sisters of the grandfathers and grandmothers and their descendants, or such of them as there be, and so on, in other cases without end, passing to the nearest lineal male ancestors, and for want of them to the lineal female ancestors in the same degree, and the descendants of such male and female lineal ancestors, or such of them as there be. In case of realty acquired by descent, devise, or gift from an ancestor, the estate shall go to the next of kin of the blood of the person from whom such estate came or descended, if any there be. In default of any of the foregoing, the estate escheats to the town where it is located. Personal estate not otherwise disposed of is distributed in the same course as real estate, except that no regard is paid to the blood of the person from whom the personal estate came.

**South Carolina.**—If an intestate leave children or their issue, the widow or husband takes one-third the estate, both real and personal; if there be no children or their issue, the widow or husband is entitled to one-half the estate. Property not otherwise disposed of passes to the children in equal shares, and the lineal descendants of such children represent their parents. If there be no descendants, the estate passes first to the father; or if none, to the mother, and brothers and sisters of the whole blood equally, the issue of a deceased brother or sister representing its parent.

**South Dakota.**—If the decedent leave only one child, or the lawful issue of one child, the estate goes in equal shares to the widow or husband, and the child or issue of such child; if there be more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the husband or widow, and the remainder in equal shares to the children, and to the lawful issue of any deceased child *per stirpes*. If there be no children or their issue, the estate goes in equal shares to the widow or husband, and to the father. If there be neither descendants, parents, brothers, nor sisters, the whole estate goes to the widow or husband. The property not otherwise disposed of must descend to the children, the descendants of such children if in unequal degrees taking *per stirpes*, otherwise *per capita*. If there be no descendants, the estate passes to the father; or if none, to the brothers, sisters, or their issue, and the mother in equal shares; but if there survive neither brothers nor sisters, the mother takes to the exclusion of the issue of deceased brothers or sisters, if any. In default of all the aforesaid, the estate passes to the next of kin claiming through the nearest ancestor; and on failure of kindred the estate escheats to the state for the support of the common schools.



**Tennessee.**—Of the realty, the widow has an estate for life in one-third part; the husband has tenancy by curtesy. Of the personalty, the husband takes all; and the widow, if there be children or their issue, takes a child's part, otherwise she takes all. If there be no heirs-at-law capable of inheriting the real estate, it descends to the widow or husband in fee. Real estate, subject to the right of the widow or husband, descends equally to the children, and the descendants of any deceased child *per stirpes*. If there be no descendants and the lands were acquired by the intestate, such lands shall descend to the brothers and sisters of the whole and half blood and their issue; if there be none such, to the father and mother as tenants in common. If the realty were acquired by devise, gift, or inheritance from an ancestor, then the estate goes to the kindred of that ancestor. If the father and mother both be dead, the realty goes in equal moieties to the heirs of the said father and mother in equal degrees of relationship. The personalty is distributed equally to the next of kin of the intestate in equal degrees.

**Texas.**—The widow or husband, when children or their issue survive, takes one-third of the realty for life and one-third of the personalty absolutely, and one-half of the community property charged with debts. If there be neither children nor their issue, the widow or husband takes one-half the realty in fee, and all the personalty absolutely, as well as all the community property. If there be neither descendants, father, mother, brothers, nor sisters, the widow or husband takes the whole estate, real and personal. Excepting the rights of the widow or husband, the property shall descend and pass, in coparcenary, to the children and their descendants, such descendants taking *per stirpes* if in unequal degrees, but otherwise *per capita*. If there be no descendants, the property passes to the father and mother in equal portions; but if only the father and mother survive, then the estate shall be divided into two equal parts, one of which shall pass to such survivor, and the other half to the surviving brothers and sisters of the deceased and to their descendants; but if there be none such, then the whole shall be inherited by the surviving father or mother. If there be neither father nor mother, the whole estate passes to the brothers and sisters and their descendants. If there be none of the kindred aforesaid, the inheritance is divided into two moieties, one of which goes to the paternal and the other to the maternal kindred, in the following order: To the grandfather and grandmother in equal portions, but if only one of these be living, the estate is divided into two equal parts, one of which passes to such survivor, and the other to the descendants of such deceased grandfather or grandmother. If there be neither surviving grandfather nor grandmother, then the whole estate passes to their descendants, and so on without end, passing in like manner to the nearest lineal ancestors and their descendants. In cases where the

inheritance passes to the collateral kindred, if part of such kindred be of the whole blood, and part of the half blood only, the latter shall inherit only half as much as the former; provided, if all be of the half blood, they shall have whole portions. When collateral kindred stand in the same degree of relationship, they take *per capita*; when part are dead and part living, the children of those deceased take *per stirpes*.

**Utah.**—The widow or husband, if there be but one child, takes one-half the estate, both real and personal; if more than one child survive, or the issue of any deceased child, one-third. If there be neither children nor their issue, if the estate be valued at less than \$5,000, the whole, and if valued at more than \$5,000, one-half the excess also, goes to the widow or husband. Property not otherwise disposed of descends to and is distributed among the children equally, and their descendants, who take *per capita* if in equal degrees. If there be no issue, the estate passes to the father and the mother in equal parts; or, if neither of these survive, to the brothers and sisters equally, the descendants of deceased brothers and sisters taking *per stirpes*. An illegitimate child, under certain circumstances, is an heir to a decedent who has acknowledged himself to be the father.

**Vermont.**—If an intestate leave children or their issue, the widow takes one-third of both the real and personal estate; and, if the personal estate do not exceed \$300 in value, the whole is assigned to her. The husband has his estate by curtesy in his wife's real estate. If there be no issue, and if the real estate do not exceed \$2,000 in value, the whole may be assigned to the widow; and the husband has the same share in his wife's estate as she would have in his. If the estate exceed \$2,000 in value, the widow or husband is entitled to \$2,000 and one-half the excess. Except the interest of the widow or husband, the property descends in equal shares to the children and their descendants, such descendants taking *per stirpes*. If there be no issue, the property passes to the father; next, in equal shares to brothers and sisters, or the legal representatives of any deceased brother or sister, and the mother, if living, takes the same share as a brother or sister; if none of the above survive, to the next of kin in equal degree in equal shares, computing the degrees of kindred by the civil law. Collaterals of the half blood inherit equally with the whole blood. If there be no kindred capable of inheriting, the estate escheats to the town where it is located.

**Virginia.**—Of the realty, the widow has her dower, and the husband his tenancy by curtesy. The husband takes all the personalty; and the widow, if there be children or their issue surviving, takes one-third, but if there be no descendants, she takes one-half. If there



be no kindred, all the estate goes to the widow or husband; or if the husband or wife be dead, to his or her kindred, in like manner as if such husband or wife had survived the intestate. The real estate descends to the children and their descendants; if there be none, to the father; if no father, to the mother, brothers, and sisters, and their descendants. If there be none of the aforesaid or their descendants, then one moiety to the paternal, the other to the maternal, kindred, in the following order: To the grandfather; if none, to the grandmother, uncles, and aunts on the same side, and their descendants; if none such, then to the great-grandfathers; if none, then to the great-grandmothers, and their descendants, and so on, passing to the nearest lineal male ancestor; if none, to the female ancestors in the same degree, and the descendants of such male and female ancestors. If there be neither father, mother, brother, sister, nor any descendant of either, nor any paternal kindred, the whole shall go to the maternal kindred. Collaterals of the half blood inherit only half as much as those of the whole blood, but if all the collaterals be of the half blood, then the ascending kindred, if any, shall have double portions. Where those entitled are in the same degree, they take *per capita*; but, where some in that degree are dead, leaving descendants, these descendants take *per stirpes*. The fact that any party derives title through an alien ancestor shall be no bar to his claim. Bastards inherit from their mother as if legitimate. If a man marry the mother of his bastard child, and recognize the child before or after the marriage, it shall be deemed legitimate. A child born within 10 months of the death of the intestate shall inherit as though it was in being at the time of the death. The real estate of an infant dying without issue shall descend and pass to the kindred on the side of that parent from whom it was derived; if none, then to those on the side of the other parent. Personalty, after the payment of debts, funeral expenses, and charges of administration, passes to the same persons as real estate, except that the personal estate of an infant is distributed as if he were an adult.

**Washington.**—Separate property is such as is acquired before marriage, or after marriage, "by gift, bequest, devise, or descent." Community property is such as is acquired during marriage otherwise than by gift, devise, or descent. Of the separate real estate, if there be but one child, the widow or husband takes one-half; if more than one child, one-third. Of the personalty, the widow or husband takes one-half, after the payment of debts and other charges. Upon the death of either husband or wife, one half of the community property shall go to the survivor, subject to the payment of the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case no such testamentary disposition shall be made of his or her half of the community property, it shall descend to his or her lawful

issue; if no such issue, then the survivor takes the entire estate, subject to the community debts and expenses of administration. If there be no lawful issue, the widow or husband takes one half the separate real estate, and the other half goes to the father and the mother, or the survivor of them; or if no father or mother, to the brothers and sisters; while of the personalty, the widow or husband takes all. If there be neither descendants, parents, brothers, nor sisters, the widow or husband takes all the separate real and personal estate. The separate property, subject to the interests of the widow or husband, if any, passes to the children in equal shares, and their descendants *per stirpes*. If there be no descendants, it passes to the father and the mother, or the survivor of them; if neither of these survive, to the brothers and sisters and their descendants; if there be none of these, then to the next of kin in equal degrees. If there be no kindred, real estate escheats to the state for the use of the common schools of the county where such realty is located, and the personal estate, for the schools of the county where the decedent resided.

**West Virginia.**—The widow is entitled to dower of the husband's real estate, and the husband has his estate by curtesy whether there be children born or not. Of the personalty, each is entitled to one-third, if there be children or their issue; but if there be no children or their issue, each is entitled to the whole of the personal estate. Real estate descends in coparcenary, subject to dower and debts, to the children and their descendants; if there be no child, nor descendant of any child, to the father; if no father, to the mother, brothers, and sisters, and their descendants, and so on. Collaterals of the half blood inherit only half as much as those of the whole blood; but if all collaterals be of the half blood, the ascending kindred, if any, take double portions. After the payment of debts and other charges, the personal estate passes in the same manner as the real estate.

**Wisconsin.**—The widow has her dower as at common law; and the husband has his tenancy by curtesy, independently of the birth of issue. The curtesy extends only to real estate owned by the wife at her death and not devised, and only to such real estate as does not go to her issue by a former husband. The widow takes the homestead for life. Of the personalty, the widow shares ratably with the children; and, if there be no children, the widow or husband takes all the estate. Subject to dower, curtesy, and debts, the property descends to and is distributed among the children, and the issue of such children, the descendants taking equally if in the same degree of descent, but otherwise *per stirpes*. If there be no descendants, it passes to the parents or the survivor of them; if there be none, to the brothers and sisters, and to the children of any deceased *per stirpes*; or if none of these survive, to the next of kin in equal degrees.



**Wyoming.**—If a person leave children or their issue, one half of the estate descends to the widow or husband, and the other half equally to the children. If there be neither children nor their issue, and the estate do not exceed \$10,000 in value, the widow or husband takes all; if it exceed \$10,000, he or she takes three-fourths, and the father and the mother, or the survivor of them, one-fourth. In other cases, the law of descent is as follows: To the children surviving, and the descendants of children who are dead, the descendants collectively taking the share which their parent would have taken if living; if there be neither children nor their descendants, then to the father, mother, brothers, and sisters, and to the descendants of the brothers and sisters who are dead, in equal parts, the descendants collectively taking the share their parent would have taken if living. If there be neither father, mother, brothers, nor sisters, nor descendants of deceased brothers and sisters, nor husband nor wife living, then to the grandfather, grandmother, uncles, aunts, and their descendants (descendants taking as before mentioned) in equal parts.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—The widow has her dower of the realty, and the husband his tenancy by curtesy. Of the personalty, the widow or husband takes one-third, if there be children or their issue; if there be no children or their issue, she or he takes one-half. The course of the descent and distribution of property is the usual one. Children who have received advancements must account for the same before taking any share. After children and their issue, the realty descends to the father, unless the estate were derived from the mother, then to her if she be living; next to the mother for life, reversion to brothers and sisters, and their descendants equally, or, if none such, to the mother in fee. Personalty is distributed to the next of kin.

**Manitoba.**—The widow or husband takes one-third of both the real and the personal estate, if there be also children or their issue; if there be no issue, the whole estate goes to the widow or husband. The property first passes to the children equally; next to the father; if there be no father, to the mother, brothers, and sisters equally, representation being allowed as to brothers' or sisters' children.

**New Brunswick.**—Of the realty, the widow has dower, and the husband has curtesy. Of the personalty, the widow takes one-third, and the husband one-half, if there be issue; if there be no issue, the widow takes one-half, and the husband all. The descent and distribution of the property follows the usual course.

**Nova Scotia.**—Of the realty, the widow has dower; and the husband has tenancy by curtesy, but only of such of his wife's land as

she died seized. A widow takes one-third surplus personal estate if there be issue, and if there be no issue, she takes one-half the realty in lieu of dower, and one-half the personalty. The real estate descends in equal shares to the children and the issue of deceased children *per stirpes*; if no child be living, to his other lineal descendants, who shall share equally, if in the same degree; otherwise, *per stirpes*. If there be no issue, one half goes to the father, and one-half to the widow in lieu of dower; if there be no widow, the whole to the father; if there be neither issue nor father, one-half to the widow, the other half in equal shares to the mother, brothers, and sisters, and the children of any deceased brother or sister *per stirpes*. If there be none of the foregoing, in equal shares to the next of kin in equal degree, excepting where there are two or more collateral kindred in equal degree but claiming through different ancestors; those claiming through the nearest ancestor shall be preferred; but in no case shall representation be admitted among collaterals after brothers' and sisters' children. If the person deceased be unmarried and under age, the estate inherited from either parent goes to the children of the same parent and their issue equally, if in the same degree; otherwise, *per stirpes*; if there be no children of the same parent, to all the issue of other children of the same parent equally, if in the same degree; otherwise, *per stirpes*. Degrees of kindred are computed by the rules of the civil law; kindred of the half blood inherit equally with those of the whole blood in the same degree. Personal property descends in the same way subject to the payment of debts, funeral expenses, and other charges.

**Ontario.**—The widow or husband takes one-third of the estate, if there be issue surviving. If there be no issue, the widow or husband takes one-half the estate; and, if the net value of the estate shall not exceed \$1,000, it shall belong to the widow or husband free from debts and other charges. The property remaining undisposed of passes to the children, or their descendants. Children who have received advancements from the intestate must account for the same, or be excluded from sharing. If there be no next of kin capable of taking, the property escheats to the crown.

**Quebec.**—The rights of husband and wife may be altered by the marriage contract. The widow may have dower in one-half the immovables of the husband. Of the community property, either party receives one-half. Relations beyond the twelfth degree do not inherit, and in that case, the succession belongs to the surviving consort. Children or their descendants succeed to the property of their ascendants undisposed of without distinction of sex or primogeniture. If there be no descendants, the parents get one half the estate; and the brothers and sisters, and nephews and nieces of the first degree, the other half. If there be neither brothers, sisters, nor their children as aforesaid, the parents divide the estate equally; or, *per contra*, the



brothers, sisters, and their children. If there be none of the foregoing, the estate is divided between the nearest ascendants of the paternal line, and the nearest ascendants of the maternal line, and if there be no kindred capable of inheriting, the estate escheats to the crown.

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### ENGLAND

Of the realty, the widow has her dower, and the husband has his tenancy by curtesy if issue have been born capable of inheriting. Of the personal estate, the husband takes all; and the widow, if there be issue, takes one-third. But if there be no issue, the widow has a first charge on all the real and personal estate for the sum of £500 and takes one-half of the residue. Subject to the right of husband and wife, the real estate first descends to the decedent's eldest son, or if no son, to the daughters equally. The personal estate is divided among all the children equally. If there be no descendants, the realty descends to the next eldest brother; and personalty is distributed among the next of kin.

## DISTRESS FOR RENT

Distress for rent has been expressly abolished in the District of Columbia, Minnesota, Mississippi, New York, Oregon, Utah, and Wisconsin. In other states the procedure has practically fallen into disuse. In a few states only has distress been recognized by the statutes as still existing. In many states, although distress has been abolished, it is practically preserved under the law of liens and attachments. The landlord has a statutory lien for his rent, unless otherwise agreed, on the crops grown during the term upon the demised premises in Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, and Texas; on the furniture and other personal property on the premises in the District of Columbia, Florida, Iowa, Kentucky, Louisiana, Missouri, New Mexico, Utah, Virginia, and West-Virginia. By an express provision in the lease, the landlord may sometimes acquire a lien upon the personal property of the tenant on the demised premises, as in Alabama, California, Illinois, Indiana, Iowa, Kentucky, Mississippi, Missouri, New Jersey, New York, Oregon, Rhode Island, Texas, and Vermont. But the lien may not be enforced against third parties without notice, unless the lease be recorded as a chattel mortgage, in Arkansas, Illinois, Iowa, Michigan, Minnesota, Missouri, and New York.

The general principles of the common law as to rent and the remedies for its collection apply also to the rights given by these statutes, the main difference being that the statutes substitute the process of the court for the personal distraint of the landlord allowed by the common-law method, and confine the distress to the property of the tenant only, and do not allow it as to the property of third persons found on the demised premises. In those states, territories, and provinces of Canada, when no mention of distress has been made, it is believed that no statute on the subject exists.

**Alabama.**—The landlord has a lien on the crop grown on rented land for rent, for the current year, and for advances made in money or other thing of value. Unless otherwise stipulated, the rent and the price or value of the articles advanced shall be due on the 25th day of December of the year in which the crop is grown. The landlord may assign his claim, and the assignee will take the landlord's rights and remedies. The landlord or his assignee may have process of attachment for the recovery of the sum due him for rent and for advances. The landlord of any storehouse, dwelling house, or other building has a



lien on the goods, furniture, and effects of the tenant for his rent, which is superior to all other liens except those for taxes, and such lien can be enforced by attachment, as in attachments in other cases, when the tenant has fraudulently disposed of his goods or is about to do so or make an assignment for the benefit of his creditors or a complete transfer of substantially all of his goods without the consent of the landlord, for the payment of rent in full for the term, and also when the rent or any instalment thereof is due and the tenant refuses on demand to pay such rent.

**Arkansas.**—The landlord has a lien on crops grown on the demised premises paramount to all other liens, except that for taxes, continuing for 6 months after the rent becomes due. The lien is enforced by attachment.

**California.**—Distress for rent is not known, but judgment for rent and unlawful detainer may be had, and property not exempt from execution may be levied upon to satisfy the judgment.

**Colorado.**—A landlord cannot distrain for rent in the absence of an express agreement.

**Delaware.**—Distress may be had of the grain, grass, horses, cattle, or other goods and chattels being upon the premises, except they be not the property of the tenant, but are there in the way of trade, as horses at a livery, property of boarders in a boarding house, and the like. If the tenant remove his effects from the premises without payment of the rent due or growing due, and without license from the landlord in writing under his hand, they shall be liable, wherever found, to be distrained for rent for 40 days after the removal or after the rent becomes due, unless they have in the meantime been sold and delivered to a *bona-fide* purchaser for value. Rent is a preferred claim, and in case of the sale under execution process on the tenant's goods and effects on the premises, 1 year's rent in arrear and growing due, shall be paid the landlord out of the proceeds of sale before anything shall be applicable to such process. No exemption is allowed as against a claim for rent.

**District of Columbia.**—Distress for rent, as it existed at common law, was abolished by an act of congress, and a tacit lien substituted, which extends to 3 months' rent, and may be enforced by attachment or execution upon such effects of the tenant upon the premises as are subject to execution.

**Florida.**—Distress warrants for the collection of rents may issue from the court in the county where the land lies having jurisdiction of the amount claimed, upon the filing of an affidavit by any person to whom any rent or money for advances may be due, his agent or attorney, executor or administrator; the affidavit stating the amount

or quantity and value of the rent due for such land or the advances, and whether it or they be payable in money, cotton, or other agricultural products or things. The common-law remedy of distress regulated by statute as to form of procedure is in use. The landlord of agricultural property has a lien on the crops grown on the premises, which lien is paramount to all others.

**Georgia.**—The landlord may distrain for rent as soon as the same becomes due, or before due if the tenant be removing his goods from the premises. The landlord has a special lien upon the crops raised upon his land, superior to all other liens, except liens for taxes, and this dates from the maturity of the crops; and he also has a general lien on all property of the tenant, which dates from the day of the levy, but is inferior to certain other liens. The landlord also has a special lien on the crops for supplies furnished with which to make the crop. The defendant can replevy the property distrained only upon giving bond with good security conditioned to pay the final condemnation money.

**Illinois.**—Any personal property of the tenant found in the county where the tenant resides may be taken by the landlord at any time while the tenancy remains in force, or within 6 months after its termination, except property exempt by law from seizure and sale on execution. The property of third persons found on the premises is not liable to such seizure. The landlord may distrain for rent before it is due if the tenant be seeking to remove his goods from the premises.

**Indiana.**—The landlord has a lien on the crops grown during the term for his rent.

**Iowa.**—A landlord shall have a lien for his rent upon all crops grown upon the demised premises, and upon any other personal property of the tenant which has been used on the premises during the term and not exempt from execution, for a period of 1 year after the year's rent, or the rent of a shorter period claimed, falls due; but such lien shall not in any case continue more than 6 months after the expiration of the term. In the event that a stock of goods or merchandise, or a part thereof, subject to a landlord's lien, shall be sold under judicial process, order of court, or by assignee under a general assignment for the benefit of creditors, the lien of the landlord shall not be enforceable against said stock or portion thereof, except for rent due for the term already expired, and for rent to be paid for the use of the demised premises for a period not exceeding 6 months after date of sale, any agreement of the parties to the contrary notwithstanding. Such liens may be effected and enforced in the manner provided by the statute, by attachment.

**Kansas.**—The landlord has a lien for rent on the crops grown during the term, unless otherwise agreed. This lien is enforced by attachment.



**Kentucky.**—The landlord has a lien on the fixtures, furniture, and other personal property of the tenant or under tenant, after possession taken under the lease, for not more than 1 year's rent due. The landlord of agricultural lands also has a lien on the crops, paramount to all other liens except that for taxes. Distress for rent issues on the affidavit of the landlord or his agent, showing the amount of rent due and in arrears. It may be levied on the tenant's goods in the county, and any subtenants' goods on the leased premises, emptions excepted.

**Louisiana.**—All movables within the leased premises are subject to the landlord's lien and right of pledge, whether belonging to the lessee or not, except such as belong to a subtenant, who is responsible only for such rent as he may owe. This does not apply to personal effects in hotels.

**Maine.**—Claims for rent must be enforced as other contracts. There is, however, a lien on buildings for land rent, enforceable by attachment within 6 months after the rent is due.

**Maryland.**—Distress for rent has been abolished in Baltimore city as to all tenancies less than 3 calendar months. In lieu thereof, the landlord upon sworn, or affirmed, written complaint of himself, his agent, or attorney, may have proceedings before any justice of the city and recover the premises, together with his rent and costs. The tenant may appeal from the judgment at any time within 2 days after its rendition. Where the rent of farm land is payable in a share of the crops, the landlord has a lien on the crops for his rent.

**Massachusetts.**—The landlord has no lien upon the tenant's property for rent. The law of attachment on mesne process has superseded the law of distress for rent. But under this attachment law the principles of the common-law doctrine of distress have been essentially assumed, subject to the checks and limitations, which under the English statute law and modern decisions have modified and improved it.

**Michigan.**—The landlord has no lien for rent on his tenant's property, unless by chattel mortgage inserted in his lease.

**Mississippi.**—There is no lien for rent except upon the agricultural products raised upon leased premises. All the property of the lessee is subject to seizure under a distress warrant for rent, except property exempt from execution. The proceeding is very summary, and substantially the same as that at common law. Property of strangers is not liable for rent. Property on leased premises cannot be seized under execution or attachment without paying or tendering the rent contracted for, for not more than 1 year. The landlord may

distrain for rent before it is due, if the tenant be seeking to remove his goods from the premises.

**Missouri.**—The landlord of agricultural lands has a lien on the crops grown during the term, which continues for 8 months. This lien may be enforced by attachment.

**Nebraska.**—There is no authority for distress for rent.

**New Hampshire.**—Rent stands the same as any other debt. There is no authority for distress.

**New Jersey.**—A landlord can distrain goods of the tenant on the premises, for 1 year's rent in arrears, within 6 months after the rent is due, and may follow the goods for 30 days after their removal from the premises. The goods must be the property of the tenant at the time of the distress.

**North Carolina.**—The landlord has a lien on crops, paramount to all other liens except those for taxes, continuing until the rent is paid and all conditions performed.

**Pennsylvania.**—The landlord may seize any personal property on the premises for rent due, and follow the tenant's goods for 30 days if clandestinely removed. Generally, the property of strangers on the premises may be seized for rent. The tenant, other than a copartnership or corporation, may claim an exemption of property to the value of \$300, but the exemption is usually waived by lease.

**South Carolina.**—Rent for the period of 1 year in arrears is a lien on the property of the tenant, and is paramount to all other claims, liens, or exemptions, including the homestead exemption. Distraint must be enforced within 10 days from the removal of the property from the premises, or the right is gone. Only property belonging to the tenant can be distrained. Goods in the hands of an assignee under a deed of assignment for the benefit of creditors can be distrained for past due rent.

**Tennessee.**—The landlord has a lien on crops, paramount to all other liens. This continues for 3 months after the debt becomes due, and until the determination of any suit for rent commenced within that time. An attachment, or a judgment at law and execution, levied upon the property in whosoever hands it might be found, are alternative remedies.

**Texas.**—When rent shall become due, or the tenant is about to remove from the premises, or remove his property therefrom, the party to whom rent is due, his agent, attorney, or assignee, upon filing proper affidavit and bond, may sue out a distress warrant. The landlord has a lien on crops paramount to all other liens except that for taxes, continuing so long as the property subject to the lien



remains on the premises and for 1 month thereafter. The line is enforced by attachment.

**Virginia.**—Distress may be levied on any goods of the lessee, his assignee or under tenant, found on the premises or which may have been removed therefrom not more than 30 days.

**Washington.**—Every landlord has a lien upon the crops grown or growing upon the demised premises of any year for the rent for such year, and for the faithful performance of the lease of such lands.

**West Virginia.**—A distress warrant may be levied on any goods of a lessee, his assignee or under tenant, on the premises, or which have been removed therefrom not more than 30 days. A husband or parent is entitled to an exemption amounting to \$200.

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#### PROVINCES OF THE DOMINION OF CANADA

**Manitoba.**—There are certain limitations on the right of distress by landlords. A landlord can only distrain for rent for 3 months' arrears, if the rent be payable quarterly or more frequently, or for 1 year's arrears where the rent is payable less frequently than quarterly.

**Ontario.**—Goods of the tenant which are exempt from seizure under execution, and also, with some exceptions, goods on the premises not owned by the tenant, are exempt from seizure by distress for rent.

## DIVORCE

**Alabama.**—An absolute divorce may be decreed by the chancery courts in the following cases: In favor of either party when the other was at the time of marriage physically and incurably incapacitated from entering into the marriage state; for adultery; for voluntary abandonment from bed and board for 2 years next preceding the filing of the bill; for imprisonment in the penitentiary of this or any other state for 2 years, the sentence being for 7 years or longer; for the commission of the crime against nature, whether with mankind or beast, either before or after marriage; for becoming addicted after marriage to habitual drunkenness. A divorce may also be granted to the husband when the wife is pregnant at the time of marriage, without his knowledge or agency; and to the wife in case of cruelty by the husband, when he has committed actual violence on her person, attended with danger to life or health, or when, from his conduct, there is reasonable apprehension of such violence. The applicant must be a citizen, and have resided in the state 1 year prior to the filing of the bill, except in case of abandonment, when a residence of 3 years is required. The causes for which divorce is sought need not have occurred in this state. An absolute divorce bars the wife of her dower, and of any distributive share in the personal estate of her husband, and a divorce for pregnancy of the wife bastardizes the issue. A limited divorce may be granted for any of the causes which may be assigned as grounds for an absolute divorce.

**Alaska.**—A marriage prohibited by law on account of consanguinity of parties, or on account of either having a former husband or wife then living, is, if solemnized within the District, absolutely void, and for any of such causes may be declared void from the beginning, at the action of either party. The dissolution of the marriage contract may be declared at the action of the injured party for either of the following causes: (1) Impotency existing at the time of the marriage and continuing to the commencement of the action. (2) Adultery. (3) Conviction of felony. (4) Wilful desertion for the period of two years. (5) Cruel and inhuman treatment calculated to impair health or endanger life. (6) Habitual gross drunkenness contracted since marriage and continuing for one year prior to the commencement of the action. Plaintiff must be an inhabitant of the District at the commencement of the action and for two years prior thereto. Neither party may marry a third person until the action is determined upon appeal or the time for taking an appeal has expired.



**Arizona.**—Absolute divorce may be decreed for the following causes: Adultery; physical incompetency at marriage, continuing to the institution of suit; conviction of felony and sentence thereon to imprisonment in prison, provided judgment of divorce shall not be entered until 1 year after conviction, and provided the imprisoned one has not been convicted on the testimony of the plaintiff; wilful desertion for 2 years; extreme physical cruelty; conviction of a felony before marriage, which conviction is at the time of the marriage unknown to the other party; to the wife, the husband's neglect to provide for the wife for 2 years, having the ability so to do, or because he is idle or profligate; and to the husband, when the wife is with child by another at the time of marriage, and the fact is then unknown to the husband. The plaintiff must have been a *bona-fide* resident of the territory for 1 year, and of the county for 6 months before beginning action. Alimony and counsel fees may be allowed *pendente lite*, and on decree a division of the community property may be allowed. A limited divorce may be granted for certain causes, such as desertion.

**Arkansas.**—An absolute divorce may be granted for the following causes: Adultery subsequent to marriage; impotency of either party at the time of contract; desertion for 12 months without cause; a former husband or wife living at the time of marriage; conviction for felony or other infamous crime; habitual drunkenness for 12 months; such cruel and barbarous treatment by one as endangers the life of the other; offering such indignities to the person of the other as shall render his or her condition intolerable. The plaintiff must prove residence here for 1 year next before suit; that the cause of divorce occurred or existed here, or, if out of the state, either that it was a legal cause for divorce where it occurred or existed, or that the plaintiff then resided here, and that the cause occurred or existed within 5 years next before the suit. Attorney's fees and alimony *pendente lite* may be allowed the wife. Collusion or commission of like offenses by the defendant will prevent a decree of divorce; the cause of divorce must be provided before the court can grant the divorce; and no decree *pro confesso* will be granted. Permanent alimony and the care of children may be settled in the suit. The court may at any time, upon the application of either party, make alteration as to alimony and maintenance. Each party is restored to his or her property rights as to all property remaining undisposed of at the time of the decree which either party obtained from or through the other during marriage, and in consideration or by reason thereof. The wife, when a divorce is granted her, may, upon prayer for such relief, have the name she bore before marriage restored to her.

**California.**—An absolute divorce may be decreed by the superior court for adultery; extreme cruelty; wilful desertion for 1 year; habitual

intemperance; or conviction of felony. A marriage may be annulled: If the party seeking the annulment were under the age of legal consent, and the marriage were contracted without the consent of parents or guardians; if the former husband or wife of either party were living and such marriage were in force; if either party were of unsound mind; if the consent of either party were obtained by fraud; if the consent were obtained by force; if either party were physically incapable of entering the marriage state. The plaintiff must have been a resident of the state for 6 months. No decree *pro confesso* will be granted. The marriage of divorced parties is void unless 1 year have elapsed subsequent to the granting of the divorce.

**Colorado.**—An absolute divorce may be granted for any of the following causes: Adultery; impotency; where the defendant had a wife or husband living at the time of marrying; extreme cruelty; wilful desertion and absence without any reasonable cause for the space of 1 year; the husband in good bodily health failing to make reasonable provision for the support of his family for the space of 1 year; habitual drunkenness for the space of 1 year; the defendant convicted of a felony. The plaintiff must have resided in this state 1 year before filing the bill, unless the offense be adultery or extreme cruelty committed within the state. A decree of divorce requires that neither party shall be permitted to marry again within 1 year from entry of decree, but does not affect the legitimacy of children, except where the marriage is declared void by reason of a prior marriage. If no appeal or writ of error shall be taken from the decree, the court may set aside such decree and reopen the case at any time within 1 year upon the application of the defeated party showing good reason therefor. Alimony is allowed at the discretion of the court.

**Connecticut.**—The superior court may grant an absolute divorce for any of the following causes: Adultery; fraudulent contract; wilful desertion for 3 years with total neglect of duty; 7 years' absence, during which period the absent party has not been heard from; habitual intemperance; intolerable cruelty; sentence to imprisonment for life; any infamous crime involving a violation of conjugal duty and punishable by imprisonment in the state prison. Incapacity of either party for procreation is a ground for annulling the marriage. No complaint can be heard nor decree granted until after the expiration of 90 days from the day when the complaint is made returnable, except when the defendant shall appear in court to defend against such complaint, either in person or by counsel, in which case such complaint shall be privileged, and shall be tried as soon as may be. Three years' continuous residence in this state by the plaintiff next before the date of the complaint is required unless the cause of divorce shall have arisen subsequently to removal to this state by the plaintiff or unless the defendant shall have continuously resided within this state 3 years next



before the date of the complaint, and actual service shall have been made upon him or her, or unless the cause be habitual intemperance or intolerable cruelty, and the plaintiff were domiciled in this state at the time of marriage and before bringing the complaint have returned with the intention of permanently remaining. The court may order alimony *pendente lite*, and may assign to any woman so divorced part of the estate of her late husband, not exceeding one-third, and may change her name, and may make any proper order as to the care, custody, and education of her minor children, and thereafter at any time may vary or annul the same.

**Delaware.**—An absolute divorce shall be decreed for adultery; desertion for 3 years; habitual drunkenness; impotency at the time of marriage; extreme cruelty; conviction anywhere after the marriage of a crime deemed a felony by the laws of this state. An absolute or a limited divorce at the court's discretion shall be decreed for the procurement of the marriage by fraud; when the husband is under 18, and the wife under 16, years of age at the time of marriage, such marriage not being afterwards voluntarily ratified; for wilful neglect by the husband for 3 years to provide the necessaries of life for his wife suitable to her condition. Proper alimony may be granted the wife at the court's discretion. If the divorce be for the husband's aggression, the complainant shall be restored to her real estate and be allowed such share of her husband's personal estate as the court shall think reasonable. A divorce obtained in another jurisdiction for causes that would not be sufficient here shall be of no force or effect in this state. The court may decree marriages null and void which are prohibited by law because of the consanguinity or affinity of the parties; or between a white person and a negro or mulatto; or where either of the parties had, at the time of the marriage, another husband or wife living; or where either of the parties was at the time insane.

**District of Columbia.**—Divorce from the bond of marriage may be granted only where one of the parties has committed adultery during the marriage. The innocent party only may remarry, although the divorced parties may again be joined in matrimony. Divorce from bed and board may be granted for drunkenness, cruelty, or desertion; and an absolute divorce may be granted subsequent to a decree of divorce from bed and board for cause sufficient to entitle the complaining party to such decree. No marriage will be annulled or divorce decreed to any one not a resident of the district; and, unless the complainant have resided in the district at least 3 years preceding the application, no decree will be rendered for cause that occurred out of the district. In all cases, the facts must be proved. No admission in defendant's answer shall be taken as proof, nor shall a decree by default be rendered.

**Florida.**—Absolute divorce may be granted for the following causes: Where the parties are within the degrees prohibited by law; where either party is naturally impotent; where either has committed adultery; where either of the parties had another wife or husband living at the time of his or her marriage (where either of the parties had a former wife or husband living at the time of the marriage, the marriage is absolutely void and the children illegitimate); extreme cruelty; habitual indulgence of violent and ungovernable temper; habitual intemperance; wilful, obstinate, and continued desertion for the period of 1 year; and incurable insanity. The complainant must have resided in the state 2 years, except when the defendant has been guilty of adultery in this state; then the divorce may be obtained at any time, and 2 years' residence is not required. Where there has been a divorce in another state, either of the parties who subsequently resides in this state for 2 years may have, upon that ground, a decree of divorce here. Where the party against whom the complaint is made resides out of the state, or has removed therefrom so that the ordinary process cannot be served, service may be made by publication, for the space of 3 months at least, in a public newspaper of the state, or the court may order service by a copy of the bill and an order for a hearing thereon, duly certified by the clerk of the court, served upon the defendant at least 3 months before the day appointed for the hearing. There is no limited divorce, but alimony will be granted on the wife's application for any of the same grounds which justify an absolute divorce.

**Georgia.**—An absolute divorce may be granted by the superior courts, upon the verdict of two juries, at different terms of court, upon the following grounds: Intermarriage by persons within the prohibited degrees of consanguinity and affinity; mental incapacity at the time of marriage; impotency at the time of marriage; force, menaces, duress or fraud in obtaining the marriage; pregnancy of the wife at the time of marriage, unknown to the husband; adultery of either party after marriage; wilful and continued desertion by either party for the term of 3 years; conviction of either party for an offense involving moral turpitude, under which there is a sentence to imprisonment in the penitentiary for the term of 2 years or longer. In the case of cruel treatment, or habitual intoxication, the jury may in their discretion grant a total divorce, or a partial divorce. Partial divorces may be granted upon the grounds which were held sufficient in the English courts prior to May 4, 1784. A residence of 12 months within the state is required of the plaintiff.

**Idaho.**—An absolute divorce may be granted for the following causes: Adultery; extreme cruelty; impotency; wilful desertion; wilful neglect; habitual intemperance, or conviction of felony and sentence therefor to 2 years' imprisonment. The plaintiff must reside in the



state at least 6 months before commencing suit. A divorce cannot be granted by default or upon the admissions of either party only.

**Illinois.**—A divorce may be granted for the following causes: Continued impotency existing at the time of marriage; preexisting marriage; adultery; wilful desertion for 2 years without reasonable cause; habitual drunkenness for 2 years; an attempt upon the life of the complaining party; extreme and repeated cruelty; conviction of felony or other infamous crime. The complainant must have resided within the state for 1 year next before the filing of the bill, unless the act complained of were committed in the state or while one or both parties resided in the state; and suit must be brought in the county of the plaintiff's residence. An absent defendant may be served by publication under the usual chancery practice. If default be made, the testimony shall be in open court without a jury. The husband may be ordered to pay alimony *pendente lite*, and permanent alimony may be decreed to the wife, which may be altered or modified from time to time.

**Indian Territory.**—Divorces are granted on the following grounds: Impotency; desertion for 1 year without reasonable cause; where either party had a husband or wife living at the time of the marriage; where either party shall be convicted of a felony or other infamous crime; habitual drunkenness for 1 year, or such cruel or barbarous treatment as to endanger the life of the other, or offering such indignities to the person of the other as shall render his or her condition intolerable; adultery; insanity.

**Indiana.**—The following are the only grounds for an absolute divorce: Adultery, except when the offense has been committed with the connivance or consent of the party seeking the divorce, or when the party seeking the divorce has voluntarily cohabited with the other with knowledge of the fact, or has failed to file a petition for 2 years after the discovery of the same, or when the party seeking the divorce has been guilty of adultery under such circumstances as would have entitled the opposite party, if innocent, to a decree; impotency existing at the time of marriage; abandonment for 2 years; cruelty; habitual drunkenness; husband's failure to make reasonable provision for his family for a period of 2 years; the conviction of either party, subsequent to the marriage, in any country, of an infamous crime, an infamous crime being one punishable by imprisonment in the penitentiary. Marriages prohibited by law on account of consanguinity, affinity (marriages between parties nearer of kin than second cousins being prohibited), difference of color, or where either party thereto has a former wife or husband living, if solemnized within the state, shall be absolutely void without any legal proceedings. The plaintiff must establish a residence in the state of 2 years immediately preceding

the filing of the petition and of 6 months in the county, by the evidence of at least two witnesses who are resident freeholders and householders of the state. Where the defendant is shown by the affidavit of a disinterested person to be a non-resident of the state, publication shall issue in the usual form, provided, that the plaintiff shall file his affidavit with the clerk, stating the defendant's residence, if known, and the clerk shall forward by mail to said defendant the number of the paper containing such notice with the notice marked. Whenever a petition for divorce remains undefended, it shall be the duty of the prosecuting attorney to appear and resist. A decree shall not be granted upon default without proof. Interlocutory orders may issue pending a petition for divorce, in reference to the disposition of the property and children of the parties, and be enforced by attachment. Alimony may be awarded within the discretion of the court and made payable in a gross sum, or in instalments upon giving satisfactory security. A divorce granted in another state by a court having jurisdiction thereof shall have full effect in Indiana. For the purpose of modifying orders in reference to the custody of the children and in reference to weekly or monthly allowances for their support, or by way of alimony, the original case may be reopened at any time. Where a judgment of divorce has been granted by default against a party upon notice by publication, such defaulted party may appear and have the case reopened at any time during the 2 years next succeeding the rendition of the decree; and during that period it shall not be lawful for the party who has been granted the divorce to remarry. A separation from bed and board for a limited time may be decreed.

**Iowa.**—Divorce from the bonds of matrimony may be decreed against the husband for the following causes: When he has committed adultery subsequent to the marriage; when he wilfully deserts his wife and absents himself without reasonable cause for the space of 2 years; when he is convicted of a felony after his marriage; when, after the marriage, he becomes addicted to habitual drunkenness; when he is guilty of such inhuman treatment as to endanger the life of his wife. The husband may obtain a divorce from his wife for like causes, and also when the wife at the time of her marriage was pregnant by another than her husband, unless such husband have an illegitimate child or children then living, which was unknown to the wife at the time of their marriage. When a divorce is decreed, the court may make such order in relation to the children, property, parties, and the maintenance of the parties as shall be right and proper, and the guilty party forfeits all rights acquired by the marriage. Except where the defendant is a resident of this state, and is served by personal service, the petition for divorce, in addition to the facts on account of which the plaintiff claims the relief sought, must state that the plaintiff has been for the last year a resident of the state, specifying the town



and county in which he has so resided, and the entire length of his residence therein after deducting all absences from the state; that he is now a resident thereof; that such residence has been in good faith and not for the purpose of obtaining a divorce only; and it must in all cases state that the application is made in good faith and for the purpose set forth in the petition. The petition must be verified by the oath of the plaintiff, and proved to the satisfaction of the court by competent evidence. No divorce shall be granted on the testimony of the plaintiff alone, and all such actions shall be heard in open court on the testimony of witnesses, or depositions taken as in other equitable actions triable upon oral testimony, or by a commission, or by a commissioner appointed by the court. Service of the original notice may be made by publication, if the defendant be a non-resident of the state of Iowa, or his residence be unknown. Marriages may be annulled for the following causes: Where the marriage between the parties is prohibited by law; where either party was impotent at the time of marriage; where either party had a husband or wife living at the time of marriage, provided they have not lived and cohabited together until after the death of the former husband or wife, in which case such marriage shall be deemed valid; where either party was insane or idiotic at the time of the marriage. Where the marriage is annulled, the court may decree the innocent party compensation as in cases of divorce.

**Kansas.**—Divorces may be granted by the district court for the following causes: Former marriage; abandonment for 1 year; adultery; impotency; pregnancy of the wife at the time of marriage by other than her husband; extreme cruelty; fraudulent contract; habitual drunkenness; gross neglect of duty, or conviction of felony. A residence of 1 year is required prior to the filing of the petition by the complainant. Proceedings to reverse the decree of divorce must be commenced within 6 months after the rendition, during which time it is bigamy for either party to marry; afterwards a divorce is no bar to a future marriage. Alimony without divorce may be granted, for any of the foregoing causes, which is in effect a limited divorce.

**Kentucky.**—An absolute divorce may be granted to either party for the following causes: Such impotency or malformation as prevents sexual intercourse; living apart without cohabitation for 5 consecutive years next before the application. An absolute divorce may be granted to the party not in fault for the following causes: Abandonment for 1 year; adultery; condemnation for felony in or out of the state; concealment of a loathsome disease existing at the time of marriage, or the contraction of the same afterwards; force or fraud in marriage. Such a divorce may be granted to the wife for the following causes: Confirmed habit of drunkenness of the husband for 1 year, and wasting his estate; such habitual, cruel, and inhuman treatment of the

wife for 6 months as to permanently destroy her peace and happiness; such beating and injury as endangers her life. Such a divorce may be granted to the husband for the following causes: Pregnancy of the wife by another man at the time of marriage, unknown to husband; adultery; drunkenness for 1 year. The plaintiff must have resided in the state for 1 year next before the bringing of the action. No divorce is granted for anything done out of this state unless the complaining party then resided in this state, or it were a cause of divorce by the laws of the state or country where it was done. A judgment of divorce authorizes either party to marry again. A divorce from bed and board may be granted for any cause the court may deem sufficient. A wife so divorced has all the legal rights of a single woman, except the right to marry; but such a divorce may at any time be set aside by the court rendering it.

**Louisiana.**—Adultery or condemnation to infamous punishment are the only causes of absolute divorce. In all other cases, as for cruelty, desertion, or habitual drunkenness, separation from bed and board must be obtained by judgment of court, and, if during 1 year succeeding this judgment no reconciliation have taken place, the divorce may be sued for in favor of the spouse who has obtained the separation from bed and board; after 2 years the losing party in the separation may sue for divorce. The marriage may be annulled for the impotency of either party at the time of the marriage, or marriage between persons within the prohibited degrees of consanguinity, or other causes rendering the marriage void *ab initio*.

**Maine.**—The grounds for an absolute divorce are: Adultery; impotency; extreme cruelty; utter desertion continued for 3 consecutive years next prior to the filing of the libel; gross and confirmed habits of intoxication from the use of intoxicating liquors, opium, or other drugs; cruel and abusive treatment and extreme cruelty; or, on the libel of the wife, where the husband, being of sufficient ability, grossly or wantonly neglects to provide suitable maintenance for her. The parties must have been married in this state, or cohabited here after marriage, or the libellant must have resided here when the cause of divorce accrued, or resided here in good faith 1 year prior to the commencement of proceedings, or libelee must be a resident of the state.

**Maryland.**—An absolute divorce may be granted for the following causes: Impotency of either party at the time of marriage unknown to the other; any cause which renders the marriage void *ab initio*; adultery; abandonment deliberate and final for 3 years; unchastity of the wife before marriage unknown to the husband. The guilty party may be prohibited from again contracting marriage. A limited divorce may be granted for the following causes: Cruel treatment; excessively vicious conduct; abandonment and desertion. The plaintiff



must have resided within the state for 2 years continuously before bringing suit.

**Massachusetts.**—An absolute divorce may be decreed for adultery; impotency; extreme cruelty; utter desertion continued for 3 years; gross and confirmed habits of intoxication, or gross and confirmed drunkenness caused by voluntary and excessive use of opium or other drugs, and where the husband wantonly and cruelly refuses or neglects to provide suitable maintenance; also, when either party has separated from the other and united with a religious sect or society that professes to believe the relation of husband and wife void or unlawful, and has continued so for 3 years, refusing cohabitation; also, when either party has been sentenced to confinement at hard labor for life or 5 years or more in a state prison, or in a jail or house of correction. No pardon granted to the sentenced party in the last instance shall restore the conjugal rights. The parties must either have lived together as husband and wife in Massachusetts and one of them be a resident of this commonwealth at the time when the cause occurred, or the libellant must have so resided for 5 years next preceeding the filing of the libel, or for 3 years, if they were inhabitants of Massachusetts at the time of their marriage. In the last two cases, even if the cause occurred in another state or country, the libel may be sustained, unless it appear that the libellant moved into Massachusetts for the purpose of securing a divorce. After a divorce from the bond of matrimony either party may marry again, except that the guilty party shall not marry within 2 years from the final decree. On the wife's libel for a cause accruing after marriage, attachment of the husband's property may be made to secure a suitable support and maintenance for her and her children. The court may require the husband to pay into court for the wife's use such money as may enable her to maintain or defend the libel, and also alimony. The court may make such orders concerning the care and custody of minor children as shall be deemed expedient and for their benefit; and may also allow the wife on her divorce to resume her maiden name, or any former husband's name. The legitimacy of the issue of the marriage is not affected by a divorce for the wife's adultery; but the same, if questioned, shall be tried and determined according to the course of the common law. The citation to the adverse party is by publication of the libel, as its substance, and the order thereon, in a newspaper, or by delivering to such party an attested copy thereof, or in such other manner as may seem most proper and effectual. All decrees of divorce are granted *nisi*, to become absolute in 6 months unless otherwise ordered.

**Michigan.**—The causes for absolute divorce are: Adultery; physical incompetency at the time of the marriage; sentence to imprisonment for 3 years or more; desertion for 2 years; habitual drunkenness; in the discretion of the court, a divorce obtained by either

party in another state. Divorce, either from the bond of matrimony or from bed and board, may, in the discretion of the court, be decreed for extreme cruelty, or a desertion for 2 years, or refusal on the part of the husband to maintain his wife or family. If parties under the age of consent marry and separate during such marriage, or if the consent of one of the parties to a marriage were obtained through force or fraud, and they shall separate and not voluntarily cohabit afterwards, the marriage is void without any legal proceeding. Sentence to imprisonment for life also dissolves the marriage without any divorce. All marriages prohibited on account of relationship between the parties, or on account of either of them having a former wife or husband living, and all marriages solemnized when either of the parties was insane or an idiot, are absolutely void without any decree of divorce or other legal process. But the issue of such marriages, except that contracted while either of the parties thereto had a former husband or wife living, are legitimate. Whenever the nullity of a marriage is decreed, or an absolute divorce is decreed for any cause but the adultery of the wife, and whenever a husband is sentenced to imprisonment for life, and also, upon every divorce from bed and board, the wife takes her real estate as upon the death of the husband. And upon any such divorce the court may also restore to the wife the personal property which came to the husband by the marriage, or award to her its value in money. The causes for the divorce on which the application is founded need not have taken place in this state. Either party may testify in his or her own behalf, but this testimony must be taken in open court and cannot be received in support or defense of a charge of adultery. No divorce can be granted unless the applicant have resided in the state 1 year preceding the filing of the bill. When the cause for divorce occurred out of the state, no divorce can be granted unless the complainant or defendant shall have resided within the state 2 years next preceding the filing of the bill. No proofs or testimony can be taken in any cause until 2 months after the filing of the bill, except where the cause of the divorce is desertion, or where the testimony is taken conditionally for the purpose of perpetuating such testimony. Where there are children under 14 years of age, a copy of the subpoena must be served upon the prosecuting attorney of the county, who must enter his appearance in the cause, and, if he think the interest of such children or the public good will require it, oppose the divorce.

**Minnesota.**—An absolute divorce may be decreed by the district court of the county where one of the parties resides for the following causes: Adultery; impotency; cruel or inhuman treatment; imprisonment in the state prison; wilful desertion for 3 years; habitual drunkenness for 1 year. The plaintiff must have been a resident of the state for 1 year before bringing suit, unless the cause alleged be adultery



committed while the complainant was a resident of the state. A limited divorce may be decreed to the wife where both parties are inhabitants of this state, or where the marriage was solemnized and the wife resides in this state, or where both parties have been residents thereof for 1 year and the wife still is a resident, for cruel and inhuman treatment, or for such conduct by the husband as may render it unsafe or improper for her to cohabit with him, or for his abandonment and refusal or neglect to provide for her.

**Mississippi.**—An absolute divorce will be granted upon the following grounds: Where the parties are within the degrees of relationship prohibited by law; where either party is naturally impotent; where either party shall be guilty of adultery; where either party shall be sentenced to the penitentiary, and not pardoned before being sent there; wilful, continued, and obstinate desertion for 2 years; habitual drunkenness; habitual cruel and inhuman treatment, marked by personal violence; insanity or idiocy at the time of marriage, if the fact were not known to the other party; where either party had a husband or wife at the time of the marriage; pregnancy of the wife by another person at the time of the marriage, if the fact were not known by her husband; habitual and excessive use of opium, morphine, or other like drug. An affidavit that the proceeding is not by collusion is required, and that the complainant has resided 12 months in the state, and that residence was not taken up in the state for the purpose of getting a divorce.

**Missouri.**—Absolute divorces only are granted. The grounds for such divorce are: Impotency; bigamy; adultery; absence for 1 year, without reasonable cause; conviction of felony or infamous crime; habitual drunkenness for 1 year; cruel or barbarous treatment as to endanger life; indignities as shall render the condition of the other intolerable; conduct of the husband within the meaning of the law respecting vagrants; conviction of a felony or infamous crime prior to marriage without knowledge on the part of the other party at the time of such marriage; pregnancy of the wife at time of marriage without the husband's knowledge. The plaintiff must have resided within the state 1 whole year next before the filing of the petition, unless the offense complained of were committed within this state. The court may order a reasonable allowance for alimony, pending the suit, and upon a decree in favor of the wife, may, at its discretion, decree alimony in gross, or from year to year. There is no restriction upon the guilty party to marry again. If the defendant be a non-resident, service may be made by publication or by personal service on the defendant, at his place of residence, 20 days before the return day of the writ of summons.

**Montana.**—A divorce may be granted for the following causes: That either party had a husband or wife living at the time of

marriage; that either party was at the time of marriage and continued to be impotent; that either party committed adultery subsequent to the marriage; wilful absence for 1 year; wilful desertion and departure from the state by the husband without the intention of returning thereto; habitual drunkenness for the space of 1 year; extreme cruelty; conviction of felony. The plaintiff must have resided in the state 1 year before bringing the suit. No divorce shall affect the legitimacy of the children of such marriage, except in the case of the adultery of the wife, in which case the legitimacy of the children is determined by the court.

**Nebraska.**—A divorce from the bond of matrimony may be decreed for the following causes: Adultery; physical incompetency at the time of the marriage; 3 years' or more imprisonment; 2 years' wilful abandonment; habitual drunkenness; any extreme cruelty by personal violence or other means; on complaint of the wife, when the husband, being of sufficient ability to provide suitable maintenance for her, shall grossly, wantonly, and cruelly refuse or neglect so to do. The action must be brought in the district court of the county where one of the parties resides. The complainant must have resided in the state 6 months immediately preceding the filing of the complaint, unless the marriage were solemnized in this state and the plaintiff shall have resided therein from the marriage to the filing of the complaint. A marriage may be annulled in cases where it was solemnized when either of the parties were under the age of legal consent, if they shall separate during such nonage, and not cohabit together afterwards, or in case the consent of one of the parties was obtained by force or fraud, and there shall have been no subsequent voluntary cohabitation of the parties.

**Nevada.**—A divorce may be granted for the following causes: Impotency; adultery; wilful desertion for 1 year; conviction of felony; habitual drunkenness contracted after marriage; extreme cruelty of either party; neglect of the husband to provide the common necessities of life for the period of 1 year. The plaintiff must have resided in the county in which the suit is brought for at least 6 months, or such county must be the county where the cause of action arose.

**New Hampshire.**—The only decree of divorce made is an absolute one, and this is granted for the following causes: Impotency of either party; adultery; extreme cruelty; actual imprisonment in the state prison on conviction of a crime punishable by imprisonment for more than 1 year; when either party so treats the other as to seriously injure health or to endanger reason; either party being an habitual drunkard for 3 years; joining a religious society that believes the marriage relation unlawful; abandonment without cause for 3 years. The cause, except adultery, must be in existence at the time



the libel is filed. A residence of 1 year is required before beginning action.

**New Jersey.**—An absolute divorce is decreed where either party had a husband or wife living at the time of their second marriage; where the parties are within the prohibited degrees; for adultery; for wilful, continued, and obstinate desertion for 2 years next preceding the filing of the petition; for incurable impotency at the time of marriage. In the first case the issue are illegitimate. A divorce from bed and board may be granted for extreme cruelty.

**New Mexico.**—Divorces are granted for adultery; cruelty; abandonment; habitual drunkenness; impotency; conviction and imprisonment in a penitentiary for perjury; pregnancy of wife by another than husband at the time of the marriage; and for failure upon the part of the husband to support the wife. Strict proof of actual marriage, the facts constituting the ground for divorce, and the residence of the plaintiff within the territory for 6 months are required.

**New York.**—A marriage is void between an ancestor and a descendant, a brother and a sister of either the whole or half blood, an uncle and a niece, an aunt and a nephew; also, where the person has a former husband or wife living, unless the former marriage have been dissolved for a cause other than adultery, or the former wife or husband have been finally sentenced to imprisonment for life, or have been absent for 5 successive years last past without being known to such person to be living. A marriage is voidable at the suit of either party, where at the time of marriage either was under the age of legal consent, or was incapable of consenting from want of understanding, physically incapable, or consented by force, fraud, or duress, or has a former husband or wife living, who has absented himself or herself for 5 successive years last past without being known to such party to be living during that time. Absolute divorce is granted only for adultery. Both parties must be residents of the state where the offense was committed, or the marriage must have taken place in the state, or the plaintiff must have resided in the state when the offense was committed and the action begun, or, if the offense were committed within the state, the plaintiff must be a resident when the action is begun. The defendant cannot remarry until after the plaintiff's death, unless there be a modification of the decree, which may be made after 5 years have elapsed since the entry of the decree, upon proof that the plaintiff has remarried and that the conduct of the defendant has been uniformly good since the dissolution of the marriage. Separation or a limited divorce may be decreed, forever, or for a limited time, for cruel and inhuman treatment, abandonment, neglect or refusal of the husband to provide for the wife, or conduct rendering it unsafe and improper for the plaintiff to cohabit with the defendant. In the final judgment

of separation the court may make such order as it sees fit regarding the support of the children or wife. Upon joint application of the parties, such a judgment for separation may be set aside by the court.

**North Carolina.**—Divorce from the bond of matrimony may be granted in the following cases: If either party shall separate from the other and live in adultery; if the wife shall commit adultery; if either party at the time of marriage was, and still is, naturally impotent; if at the time of the marriage the wife be pregnant, and the husband be ignorant of the fact of such pregnancy and be not the father of the child with which the wife is pregnant at the time of the marriage; if a husband be indicted for felony and flee the state and fail to return within 1 year from the time of indictment found; if the wife refuse for 12 months to allow the husband to have sexual intercourse with her, he having never had such intercourse with her. Divorces from bed and board may be granted in the following cases: If either party shall abandon his or her family; or shall maliciously turn the other out of doors; or shall, by cruel and barbarous treatment, endanger the life of the other; or shall offer such indignities to the person of the other as to render his or her condition intolerable and life burdensome; or shall become a habitual drunkard. The material facts shall be tried by a jury. The plaintiff in a complaint seeking either divorce or alimony, or both, shall file with his or her complaint an affidavit that the facts set forth in the complaint are true to the best of the affiant's knowledge and belief, and that the complaint is not made by collusion between husband and wife, and if for divorce, not for the mere purpose of being freed and separated from each other, but in sincerity and truth, for the causes mentioned in the complaint; and the plaintiff shall also set forth in such affidavit, either that the facts set forth in the complaint as grounds for divorce have existed, to his or her knowledge, at least 6 months prior to the filing of the complaint and that the complainant has been a resident of this state for 2 years next preceeding the filing of the complaint; or, if the wife be the plaintiff, that the husband is removing or about to remove his property and effects from the state, whereby she may be disappointed in her alimony; provided, if any wife shall file in the office of the superior court clerk of the county where she resides an affidavit setting forth the fact that she intends to file a petition or bring an action for divorce against her husband, and that she has not had knowledge of the facts upon which said petition or action will be based for 6 months, then and in that case it shall be lawful for such wife to reside separate and apart from her husband, and to secure for her own use the wages of her own labor during the time she shall so remain separate and apart from her said husband; provided, further, that if such wife shall fail to file her petition or bring her action for divorce within 30 days after the 6 months shall have expired since her knowledge of the facts upon which she



intends to file her said petition or bring her said action, then she shall not be entitled to any relief.

**North Dakota.**—An absolute divorce may be granted for any of the following causes: Adultery; extreme cruelty; wilful desertion; wilful neglect; habitual intemperance; conviction for felony. Desertion, neglect, and intemperance must continue for 1 year before either is a ground for divorce. All of the causes of divorce are accurately defined by statute, especially desertion. Before commencing the action the plaintiff must in good faith have been a resident of the state for 1 year. A marriage may be annulled by an action in the district court to obtain a decree of nullity for any of the following causes existing at the time of marriage: When the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent and such marriage was contracted without the consent of his or her guardian, unless after attaining the age of consent such party freely cohabited with the other as husband or wife; when the former husband and wife of either party was living, and the marriage with such former husband and wife was then in force; when either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife; when the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife; when the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife; when either party was at the time of the marriage physically incapable of entering into the marriage state, and such incapacity continues and appears to be incurable. A marriage contracted by a person having a former husband or wife living, if the former marriage have not been annulled or dissolved, is illegal and void from the beginning, unless such former husband or wife were absent, and believed by such person to be dead, for a period of 5 years immediately preceding.

**Ohio.**—An absolute divorce may be granted for any of the following causes: That either party has a husband or wife living at the time of the marriage; wilful absence of either party from the other for 3 years; adultery; impotency; extreme cruelty; fraudulent contract; any gross neglect of duty; habitual drunkenness for 3 years; imprisonment of either party in a penitentiary under sentence thereto, but the suit must be commenced during the imprisonment; divorce granted without this state by which the party procuring it is released from the marriage obligations, while the same remain binding on the other party. The plaintiff must be a resident of the state at least 1 year prior to the commencement of the action; and the petition must be filed in the common pleas court of the county where the plaintiff is a *bona-fide* resident, or the cause of action arose. The residence of the

wife is not affected by that of her husband. Where the divorce is granted by reason of the aggression of the husband, the wife shall be restored to all her lands not previously disposed of, and the husband barred of all dower therein, and she shall be allowed such alimony as the court may deem reasonable; and if she survive her husband she shall have dower in all real estate of which the husband was seized during the coverture, and to which she has not relinquished her dower. If the divorce be granted for the aggression of the wife, she shall be barred of all right of dower in the lands of which her husband is seized at the time of filing the petition for divorce, or which he thereafter acquired, whether there be issue or not; but she shall be restored to the whole of her lands not previously disposed of and not allowed to her husband as alimony, subject to the right of her husband therein, and shall have such alimony as the court may allow. The husband shall be allowed such alimony as the court may deem reasonable out of the wife's property; and, if he survive her, he shall be entitled to dower in the real estate of which she was seized at any time during coverture and to which he has not relinquished his right. Alimony without divorce may be granted, which is in effect a limited divorce.

**Oklahoma.**—There are ten grounds on which an absolute divorce may be granted, as follows: When either of the parties had a former husband or wife living at the time of the subsequent marriage; abandonment for 1 year; adultery; impotency; when the wife at the time of the marriage was pregnant by another than her husband; extreme cruelty; fraudulent contract; habitual drunkenness; gross neglect of duty; the conviction of a felony, and imprisonment in the penitentiary therefor, subsequent to the marriage. The party applying in an action for divorce must have been an actual resident in good faith of the territory for 1 year next preceding the filing of the petition. The decree does not take effect and become absolute until 6 months have elapsed from its being rendered.

**Oregon.**—An absolute divorce may be decreed for either of the following causes: Adultery; impotency; conviction of felony; habitual gross drunkenness; wilful desertion for 1 year; cruel and inhuman treatment; personal indignities rendering life burdensome. The plaintiff must reside in the state 1 year before beginning suit, which gives the court jurisdiction without reference to the place of marriage. A suit for divorce may be begun and tried in any county in the state without reference to the residence of either party thereto. Where the decree is granted, the party at whose prayer it is given is entitled to one-third of the real estate owned by the other. The court may also allow counsel fees and alimony in a proper case.

**Pennsylvania.**—A divorce from the bonds of marriage may be granted to the innocent party in any of the following cases: Where



either party, at the time of the contract, was and still is naturally impotent or incapable of procreation; where either hath knowingly entered into a second marriage while a former marriage was still subsisting; where either party commits adultery; wilful and malicious desertion and absence from the habitation of the other, without reasonable cause for and during the term and space of 2 years; when any husband shall have by cruel and barbarous treatment, endangered his wife's life or offered such indignities to her person as to render her condition intolerable, and life burdensome, and thereby force her to withdraw from his house and family; where the alleged marriage was procured by fraud, force, or coercion, and has not been subsequently affirmed by the act of the injured party; when either of the parties heretofore has been or hereafter shall be convicted of forgery or any infamous crime, either within or without this state, and sentenced to any term exceeding 2 years; where the wife shall have, by cruel and barbarous treatment, rendered the condition of her husband intolerable, or life burdensome. All marriages within the degree of consanguinity or affinity, according to the table established by law, are declared void, and divorces may be granted in such cases. No person shall be entitled to a divorce from the bonds of matrimony who is not a citizen of this state, and who shall not have resided therein at least 1 whole year previous to the filing of the petition or libel. In cases of desertion as aforesaid, it shall be lawful for either party to make application for divorce at any time not less than 6 months after such cause of divorce arose, but there shall be no final decree until after the expiration of 2 years from the time when such desertion took place. The parties need not be domiciled in this state when the cause for divorce occurred, provided the applicant have resided within the state for 1 year. The wife or husband who shall have been guilty of the crime of adultery shall not marry the person with whom the said crime was committed during the life of the former wife or husband. A divorce from bed and board may be granted in the following cases: If any husband shall maliciously either abandon his family, or turn his wife out of doors, and by cruel and barbarous treatment endanger her life, or offer such indignities to her person as to render her condition intolerable, or her life burdensome, and thereby force her to withdraw from his home and family; when the husband commits adultery. Such divorce shall continue until a reconciliation has taken place, when the court may annul the same. The husband may be compelled to pay alimony to the wife in such cases.

**Rhode Island.**—The ordinary grounds on which an absolute divorce may be granted are: Impotency; adultery; extreme cruelty; wilful desertion for 5 years by either party, or for a shorter period in the discretion of the court; continued drunkenness; neglect or refusal by the husband, if of sufficient ability, to provide necessary support

for his wife; marriage originally void or voidable; when the party is deemed to be civilly dead, as by conviction for murder or arson; and for other gross misbehavior and wickedness repugnant to and in violation of the marriage covenant. If granted for the adultery or crime of the husband, the wife has dower, unless alimony be granted instead. The petitioner must have been a domiciled inhabitant of the state at least 2 years before petitioning. It is seldom that the husband obtains a divorce for desertion alone for less than 5 years. The court may grant a divorce on proof that the parties have lived separately and apart for a period of not less than 10 years.

**South Carolina.**—No divorce is granted in this state for any cause whatsoever.

**South Dakota.**—An absolute divorce may be granted for any of the following causes: Adultery, which is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife; extreme cruelty, which is the infliction of grievous bodily injury or grievous mental suffering upon the other by one party to the marriage; wilful desertion, which is the voluntary separation of one of the married parties from the other with intent to desert; wilful neglect, which is the neglect of the husband to provide for his wife the common necessities of life, he having ability to do so, or it is the failure to do so by reason of idleness, profligacy, or dissipation; habitual intemperance, which is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon the innocent party; conviction for felony. Wilful desertion, wilful neglect, or habitual intemperance must continue for 1 year before either is a ground for divorce. A residence of 6 months in the state is required prior to the commencement of an action for divorce. A marriage may be annulled by an action in the circuit court to obtain a degree of nullity for the same causes as provided by the statutes of North Dakota.

**Tennessee.**—An absolute divorce may be granted for any of the following causes: That either party at the time of marriage was and still is naturally impotent; that either party has knowingly entered into a second marriage, a previous marriage still subsisting; adultery; wilful or malicious desertion or absence without reasonable cause for 2 whole years; conviction of an infamous crime or felony; attempt upon the life of the other by poison or other means, showing malice; refusal on the part of the wife, without reasonable cause, for 2 years, to remove with him to this state; that the wife was pregnant by another man at the time of the marriage without the husband's knowledge; habitual drunkenness of either party contracted after marriage; that the husband is guilty of cruel and inhuman treatment



so as to render her condition intolerable, or has abandoned or turned her out of doors, or has neglected or refused to provide for her. The plaintiff must have resided in Tennessee 2 years before suit; but the cause for divorce need not have arisen in this state. Where the last two grounds exist the divorce shall be absolute or limited, in the discretion of the court. The petition may be filed in the county where the petitioner resides, or where the parties resided at the time of their separation.

**Texas.**—An absolute divorce may be granted for any of the following causes: For natural or incurable impotency of body at the time of the marriage; where either party is guilty of excesses, cruel treatment, or outrages toward the other, if it render their living together insupportable; where the wife is taken in adultery, or shall have voluntarily left her husband's bed and board for the space of 3 years, with intention of abandonment; where the husband abandons his wife as aforesaid, or where he shall have abandoned her and lived in adultery with another woman; when either husband or wife, after marriage, has been convicted of a felony, and imprisoned in the penitentiary. The plaintiff must be a *bona-fide* inhabitant of the state, and must have resided in the county where the suit is brought for 6 months next preceding the beginning of the suit. A divorce does not affect the legitimacy of the children, and either party may marry again.

**Utah.**—An absolute divorce may be decreed for impotency; adultery; desertion for more than one year; neglect to provide the wife with the common necessities of life; habitual drunkenness; conviction of felony; extreme cruelty. The plaintiff must have resided within the state and within the county where suit is brought for 1 year previous to the commencement of the suit.

**Vermont.**—A divorce from the bond of matrimony may be granted for adultery; for confinement in state's prison for life, or for 3 or more years; for intolerable severity; for wilful desertion for 3 years; for refusal to support, if the husband be of sufficient pecuniary ability to provide for his wife. It is not lawful for the petitionee to marry any person other than the petitioner for the space of 3 years next after the granting of the divorce. Divorces may also be granted from bed and board, forever or for a limited time, for the same causes. To entitle the court to jurisdiction, the parties must have lived together as husband and wife in this state. For causes rendering the marriage void, it may be annulled.

**Virginia.**—A divorce from the bonds of matrimony may be granted for the following causes: Adultery; a natural and incurable impotency existing at the time of the marriage; when either party is sentenced to confinement in the penitentiary (and no pardon shall

restore the sentenced party to his conjugal rights); where, prior to the marriage, either party, without the knowledge of the other, had been convicted of an infamous offense; where either party has been charged with, and indicted for, an offense punishable by death or confinement in the penitentiary, and is a fugitive from justice, and has been absent 2 years; for abandonment for 3 years; when the wife, at the time of the marriage, without the knowledge of the husband, was with child by some other person, or had been prior to the marriage, without his knowledge, a prostitute. No divorce, however, shall be granted, if it appear that the party applying for a divorce has cohabited with the other after such conviction of an infamous crime, or after knowledge that the wife was with a child or a prostitute, as aforesaid. The jurisdiction is in the circuit or corporation courts, on the chancery side, and one of the parties must be a resident of the county or corporation, and must have been domiciled in the state at least 1 year prior to the suit, and the suit must be brought where the parties last cohabited, or where the defendant resides, if in the state; if not, where the plaintiff resides. Court in term, or the judge in vacation, may make all necessary orders for the maintenance of the wife pending the suit, and for her protection, also for the preservation of the estate, and to compel the husband to pay the costs and expenses of suit and abide the decree; and, on dissolution of the marriage, the court may decree as to the estate and maintenance of parties and custody of children, and may also restrain the guilty party from marrying again. At any time after the decree, the same may be revoked upon the joint application of the parties and proof of reconciliation. Divorce from bed and board may be decreed for cruelty, reasonable apprehension of bodily hurt, abandonment, or desertion.

**Washington.**—An absolute divorce may be granted for the following causes: Where the consent to the marriage was obtained by force or fraud and there has been no subsequent voluntary cohabitation; adultery, if the application be made within 1 year after knowledge thereof; impotency; abandonment for 1 year; cruel treatment or personal indignity rendering life burdensome; habitual drunkenness, or the neglect or refusal of the husband to suitably provide for his family; imprisonment in the penitentiary; for any causes "deemed by the court sufficient, and the court shall be satisfied the parties can no longer live together." For incurable mania or dementia continuing for 10 years or more, the court may in its discretion grant a divorce. The applicant for the divorce must have lived 1 year in this state when the complaint is filed. Pending an application for divorce, the court may make all necessary orders as to alimony, counsel fees, and custody of the children. The court may also change the name of the wife when the divorce is granted. No divorced person can remarry a third person until 6 months have passed from the time of the granting of



the divorce. If any person shall remarry within the said period, he or she shall be in contempt of court.

**West Virginia.**—A divorce from the bonds of matrimony may be granted for the following causes: Adultery; natural or incurable impotency of body existing at time of marriage; sentence to the penitentiary; where prior to marriage there has been conviction, without the knowledge of the other party, of an infamous crime; wilful desertion for 3 years; where the wife, without the husband's knowledge, was pregnant at the time of marriage, or was notoriously a prostitute, or if the husband, without the wife's knowledge, prior to marriage, were notoriously a licentious person, but not if there be cohabitation after knowledge of the facts. Divorce from bed and board may be granted for the following causes: Cruel or inhuman treatment; reasonable apprehension of bodily hurt; abandonment; desertion; habitual drunkenness. One of the parties must have resided in the state 1 year next preceding the time of the suit brought. Suits must be brought in the county where the parties last cohabited, or at the plaintiff's option in the county where the defendant resides, if a resident; if not, in the county in which the plaintiff resides.

**Wisconsin.**—An absolute divorce may be granted for adultery; impotency; sentence to imprisonment for 3 years or more; wilful desertion for 1 year next preceding suit; cruel and inhuman treatment by either party; habitual drunkenness by either party for 1 year next preceding suit; separation, voluntary on both sides, for 5 years next preceding suit; the failure of the husband, being of sufficient ability, to support the wife. In the court's discretion, a limited divorce may be granted for desertion, cruelty, intoxication, or failure to support, as specified aforesaid. The plaintiff must have resided in the state for 1 year next preceding suit, or else ever since the marriage had within the state; or else the husband, being the defendant, must have resided in the state for 1 year, unless the divorce be sought for adultery committed while the plaintiff resided here.

**Wyoming.**—The following are the causes for an absolute divorce: Adultery; physical incompetency at the time of marriage, continuing to the time of divorce; conviction for felony, and sentence to imprisonment therefor, and no pardon granted after this divorce for this cause restores such party to his or her conjugal rights; wilful desertion for 1 year; habitual drunkenness; extreme cruelty; failure of the husband for 1 year to provide the common necessities of life, when such neglect is not the result of poverty on the part of husband, which he could avoid by ordinary industry; when either party shall offer such indignities to the other as shall render his or her condition intolerable; vagrancy on the part of the husband; conviction of a felony prior to marriage, unknown to the other at the time of

the marriage; pregnancy of the wife at the time of marriage by another man, without the knowledge of the husband at the time of marriage. One year's residence is required before commencing proceedings.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—The supreme court has jurisdiction to grant judicial separation, that is, a limited divorce, on the application of either husband or wife, on the ground of adultery, cruelty, or desertion without cause for 2 years or upwards. It may also decree a dissolution of the marriage on the application of the husband, on the ground of adultery; on the application of the wife, on the ground of incestuous adultery, bigamy with adultery, rape, sodomy, or bestiality, or adultery coupled with such cruelty as without adultery would have entitled her to a judicial separation, or adultery coupled with desertion without a reasonable excuse for 2 years or upwards. Where a marriage has been dissolved, either party may marry again. Alimony may be granted to the wife by the decree dissolving marriage or granting a separation, or it may be sued for separately by a wife who has either obtained or is entitled to a decree.

**Manitoba.**—There are no divorce courts. A divorce may be secured through the parliament.

**New Brunswick.**—The court of divorce and matrimonial causes may grant a divorce from the bond of matrimony for impotency, adultery, or marriage within the prohibited degrees of consanguinity.

**Nova Scotia.**—The court for divorce and matrimonial causes may dissolve a marriage for impotency, adultery, cruelty, or marriage within the prohibited degrees of consanguinity. After the suit has been finally determined, either of the parties may marry again.

**Ontario.**—There is no divorce court in this province. A divorce may be obtained for adultery only by application to parliament, and the granting of a special act.

**Quebec.**—There is no divorce court in this province. A divorce may be granted by a special act of the dominion parliament. Separation from bed and board may be granted by the court in certain specified cases.



### DOWER AND CURTESY

Dower must be distinguished from the intestate share which the widow has in the estate of her husband dying intestate, and also from the share which the widow may take in the property of her husband against his will. The share in lieu of will is usually the intestate share, and the intestate share is frequently, but not always, dower in the realty and the intestate share in the personalty. Dower has been formally abolished in many states, but usually where abolished it has been superseded by provisions which allow the widow in lieu of dower a fixed interest in her husband's real and personal estate. It has been abolished in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Minnesota, Mississippi, North Dakota, Oklahoma, South Dakota, Utah, and Wyoming. In jurisdictions which have the civil law as the basis of their system of jurisprudence, as the state of Louisiana and the province of Quebec, and in jurisdictions which have adopted the system of community property of husband and wife, as Arizona, California, Idaho, Nevada, New Mexico, Texas, and Washington, neither common-law dower nor tenancy by curtesy are recognized. Where dower still exists, it usually extends to equitable as well as legal estates in the husband's realty. In many states the widow is entitled to dower only in the lands of which the husband died seized, and not to lands alienated or otherwise disposed of by the husband before his death. In England, the subject of dower is regulated by the Dower Act, 1834. Under this act no widow is entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will, or in which he shall have devised any estate or interest for her benefit, unless, in the latter case, a contrary intention shall be declared by his will. The husband may deprive his wife of her right to dower by any declaration for the purpose made by him, by any deed, or by his will. But if the husband makes no such disposition of property, the widow is still entitled to dower in legal and equitable estates. It is provided by statute in most jurisdictions that dower may be barred by: Jointure or settlement; devise or bequest to the wife; the deed of the wife. It is usually forfeited by the adultery of the wife, divorce for fault of the wife, or, in a few jurisdictions, by the abandonment of the husband by the wife. Tenancy by curtesy as at common law exists in only a few states. Where such an estate is still allowed, it is usually provided that birth of issue alive is no longer a requisite; and in some states tenancy by curtesy initiate is practically abolished. Curtesy does not exist in

Arizona, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Mississippi, Nevada, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Washington, and Wyoming. In some states, however, where curtesy has been formally abolished, as in case of dower, the husband is given a certain interest in the wife's real estate in lieu of curtesy. The estate by curtesy is still further affected by the married women's property acts in the several jurisdictions, so that in some states it is merely contingent on the wife's not alienating her realty, or a bare possibility dependent on the husband's surviving the wife. In England, by the Married Women's Property Act, 1882, every woman married after January 1, 1883, is entitled to hold and dispose of as her separate property, all real and personal property which shall belong to her at the time of the marriage, or shall be acquired by or devolve upon her after marriage. The wife may therefore convey any legal estate of freehold which is her separate property by deed of grant without her husband's concurrence, and may also by will devise the same in fee simple. The husband's right of curtesy arises only on the wife's intestacy.

**Alabama.**—If any woman having a separate estate survive her husband, and such separate estate, exclusive of the rents, income, and profits, be equal to or greater in value than her dower interest and distributive share in her husband's estate, estimating her dower interest in his lands at 7 years' rent of the dower interest, she shall not be entitled to dower in, nor distribution of, her husband's estate. If her separate estate be less in value than her dower, as ascertained by the foregoing rule, so much must be allowed her as, with her separate estate, would be equal to her dower and distributive share in her husband's estate if she had no separate estate. Birth of issue is not necessary to entitle the husband to his estate for life in the lands of the wife.

**Alaska.**—The widow of every deceased person shall be entitled to dower, or the use during her natural life of one-third part in value of all the lands whereof her husband died seized of an estate of inheritance. When any man and his wife shall be seized in her right of any estate of inheritance in lands, the husband shall, on the death of the wife, hold the lands for his lifetime as tenant thereof by the curtesy, although such husband and wife may not have had issue born alive.

**Arkansas.**—A widow is endowed for life of the one-third part of all lands whereof her husband was seized of an estate of inheritance, legal or equitable, at any time during marriage, unless she have relinquished it in legal form. The husband is entitled to curtesy.

**Connecticut.**—A marriage contracted after April 20, 1877, does not give either party any interest in the property of the other, except such share as either may have as survivor; otherwise, as to marriages



contracted before that date. (See Descent and Distribution of the Property of Intestates.)

**Delaware.**—The widow is entitled to dower only in the realty of which the husband died seized. The husband is entitled to curtesy in the real estate of which the wife died seized, if there be issue born alive; and, even if there be no issue born alive, the husband is entitled to hold one-half part of all the intestate's real estate, after the payment of debts, during his life.

**District of Columbia.**—The widow is entitled to dower in the equitable as well as legal estates owned by the husband at the time of his death, and the husband to curtesy.

**Florida.**—The widow is entitled to a life estate in one-third of the husband's realty of which he died seized.

**Georgia.**—The wife is entitled to a life estate in one-third of the lands of which the husband was seized and possessed at the time of his death, or to which the husband obtained title in right of his wife. (This latter provision has no application, except as to marriages prior to the act of 1866. Since that time, the wife is a *feme sole* as to her separate property and the husband acquires no interest in it by marriage. Hence a relinquishment of dower by the wife is not necessary, except where the husband acquired the title in that way prior to that time.)

**Illinois.**—Dower and curtesy under those names have been abolished, but the widow or surviving husband is endowed, by statute, of an estate in fee in all lands of which the other was seized of an estate of inheritance at any time during the marriage, unless the same shall have been relinquished.

**Indian Territory.**—A widow is endowed with the one-third part of all lands of which the husband was seized during marriage; she is entitled absolutely to the one-third of the personal estate, and to one-half if no children survive the husband's death.

**Indiana.**—Dower and curtesy have been abolished by statute, but the widow, or surviving husband, takes a distributive share one-third of the realty of the other in fee simple.

**Iowa.**—The estates of dower and curtesy under those names are abolished, but one-third of all the legal or equitable estates in real property possessed by the husband at any time during the marriage, which have not been sold on execution or any other judicial sale, and to which the wife has made no relinquishment of her right, shall be set apart as her property in fee simple, if she survive him. The same share of the real estate of a deceased wife shall be set apart to the surviving husband.

**Kansas.**—Dower and curtesy have been abolished; but one-half of all real estate owned by the husband or wife during coverture, and not conveyed by husband and wife, nor sold at judicial sale, and not necessary to pay the debts of the decedent, goes to the widow or surviving husband in fee simple.

**Maryland.**—Dower exists as at common law, and extends to equitable estates. The husband takes a life estate in one-third of the wife's realty, his interest being similar to her dower interest in his property.

**Massachusetts.**—The husband becomes entitled to curtesy, and the wife to dower, if, within 1 year after the approval of the bond of the executor or administrator, a claim be filed. (See Descent and Distribution of the Property of Intestates.)

**Michigan.**—A widow resident within the state is entitled to the use for life of one-third of all lands of which her husband was seized during the marriage, except so far as she has become barred thereof. A widow residing out of the state is entitled to dower only in lands of which her husband died seized. There is no tenancy by curtesy.

**Minnesota.**—Dower and curtesy have been abolished; but the widow or surviving husband is entitled to a distributive share in fee simple of one-third of all lands of which the other was at any time during coverture seized or possessed, free from any testamentary or other disposition thereof to which such survivor shall not have consented in writing, subject, however, to its proportion of the debts of the decedent that are not paid from the personality.

**Missouri.**—The widow is entitled to common-law dower of all lands whereof her husband, or any other person to his use, was seized of an estate of inheritance at any time during the marriage, and in leasehold estates for a term of 20 years or more.

**Montana.**—A widow shall be entitled to dower in all lands of which her husband was seized during marriage, unless she have relinquished the same; or she may elect to take under the will, if her husband have made one.

**Nebraska.**—The widow of every deceased person shall be entitled to dower during her natural life, in one-third of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless she be lawfully barred thereof. Where provision for the widow is made by will, she shall make her election within 1 year from the death of her husband whether she will take under such provision or accept her dower interest in the lands. A widow has no dower interest in lands which were conveyed by her husband while she was a non-resident of the state of Nebraska, but a non-resident



widow has a dower interest in all lands within the state of which her husband died seized. The husband, where there has been issue, is entitled to one-third of the wife's realty for life as tenant by curtesy; if there have been no children, he is entitled to curtesy in all her realty.

**New Hampshire.**—The wife is endowed with so much of the husband's real estate as will produce a yearly income equal to one-third the total income at his decease, or when he parted with his title. There must be birth of issue to entitle the husband to common-law curtesy; otherwise, he is entitled to a life estate only in one-third the realty she owned at her decease.

**New Jersey.**—The widow's dower consists of the income of one-third of the realty of which the husband was seized at any time during coverture, and which the wife has not released. The widow may retain possession, without rent, of the mansion house and plantation, until her dower is set off to her. Curtesy exists as at common law, except that the husband has no estate by curtesy initiate while his wife lives.

**New York.**—Dower exists as at common law, and extends to equitable estates. Curtesy exists as at common law, except that tenancy by curtesy initiate has been practically abolished.

**North Carolina.**—The wife is entitled to dower in all the legal and equitable estates in realty of which the husband was seized during coverture. The husband on the death of his wife is entitled to curtesy.

**Ohio.**—A widow or widower, who has not relinquished or been barred of the same, shall be endowed of an estate for life in one-third of all the real property of which the deceased consort was seized of an estate of inheritance at any time during the marriage, and in one-third of all the real property of which the deceased consort at decease held the fee simple in reversion or remainder; and also one-third of all the title or interest that the deceased consort had at decease in any real property held by article, bond, or other evidences of claim.

**Oregon.**—The widow is entitled to one-half part during her lifetime of all lands belonging to her husband during coverture, unless she be lawfully barred. A husband upon the death of the wife may have an estate in her lands as tenant by curtesy.

**Pennsylvania.**—Dower exists as at common law. A devise or bequest by a husband to his wife of any portion of his estate shall be deemed to be in lieu of dower unless otherwise declared in the will; but this does not deprive the widow of her right to take against the will. The husband has his curtesy in all the realty of which the wife was seized at any time during marriage, and birth of issue is not requisite.

**Rhode Island.**—A widow is entitled to dower as at common law, that is, an estate for life in one-third of all the lands of which her husband was seized during her coverture, except such as she has released dower in by joining in his conveyance thereof. Dower is set off either by metes and bounds where practicable, or by allotment of rents. Curtesy exists as at common law.

**South Carolina.**—The widow is entitled to dower in all the real estate in which the husband was legally seized, or to which he was equitably entitled during coverture. Renunciation of it is made on the husband's conveyance. In 10 years after the husband's death the widow is barred if she do not claim dower. Equity values the dower at one-twelfth in fee before the husband's death, and one-sixth after it. Tenancy by curtesy does not any longer exist.

**Tennessee.**—The widow has an estate for her life in one-third part of the lands of which her husband died seized and possessed; also in lands mortgaged or conveyed in trust by the husband and not foreclosed in his lifetime. Tenancy by curtesy exists in this state.

**Utah.**—Dower has been formally abolished. In lieu thereof the law provides that one-third in value of all the legal and equitable estates in real property possessed by the husband at any time during marriage, and of which the wife had made no relinquishment of her rights, shall be set apart as her property in fee simple if she survive him; provided, that the wife shall not be entitled to any interest in any such estate of which the husband has made a conveyance when the wife, at the time of the conveyance, is not and never has been a resident of Utah. The value of the widow's share of the homestead is deducted from her distributive share. Curtesy has been abolished, but the husband's interest in his wife's realty is similar to that of the wife's in his.

**Vermont.**—The widow is entitled to dower only in the lands of which the husband died seized; but any conveyance by the husband of his real estate with intent to defraud the wife is voidable by her. Tenancy by curtesy still exists.

**Virginia.**—A widow shall be endowed of one-third of all the real estate of inheritance of which her husband, or any other to his use, was at any time during coverture seized. It is barred or relinquished by her joining the husband in a conveyance, or by accepting a settlement in lieu thereof, or by her adultery, unless the same be condoned by the husband. The husband does not, by marriage, acquire any right or title to the property of the wife, but on her death he is still entitled to his estate by curtesy.

**West Virginia.**—The widow is entitled to her dower as at common law. The husband is entitled to curtesy whether there were issue born alive or not.



**Wisconsin.**—Dower exists as at common law; but a non-resident wife is dowable only of lands owned by the husband at his decease. The husband's estate by curtesy exists independently of the birth of issue, but extends only to lands owned by the wife at her death and not devised, and only to such of these as do not go to the issue by a former husband.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—The widow is entitled to dower out of any land which the husband has not absolutely disposed of in his lifetime or by will. The wife's right to dower may be barred by the deed of the husband conveying the same without her joining in the execution thereof. The husband is entitled to curtesy in the realty of the wife, subject, however, to the same restrictions as attach to her right of dower in his realty.

**Manitoba.**—Dower and tenancy by curtesy do not exist as at common law, but the surviving husband or widow is entitled to a distributive share as in British Columbia.

**New Brunswick.**—The widow has no common-law right to dower.

**Nova Scotia.**—A wife is entitled to dower out of all lands (with few exceptions) of which her husband was seized at and after her marriage in which she did not bar dower during his lifetime, but a husband can only be tenant by the curtesy of such of his wife's lands as she died seized.

**Ontario.**—A widow is entitled to dower out of all lands of which her husband was seized at any time during coverture, or to which he was beneficially entitled at his death. Dower does not attach to wild lands, nor lands in a state of nature and unimproved. The husband can be tenant by curtesy of such lands only of which his wife may die seized or possessed.

## EXEMPTION LAWS

In nearly all the states there are provisions making homesteads exempt. A homestead is real property, consisting either of a certain number of acres of agricultural land, or a town lot or lots, with the appurtenances and improvements thereon, owned by the head of a family, and occupied by him and his family as a home. Generally, to constitute one the head of a family there must be a condition of dependence on the part of the other members upon him and an obligation on his part to support them. By statute in some states, as in Nebraska and North Dakota, the head of a family includes: The husband or the wife, when the claimant is a married person; every person who has, residing on the premises with him or her and under his care or maintenance, either his or her minor child or the minor child of his or her deceased wife or husband, a minor brother or sister, or a minor child of a deceased brother or sister, a father, mother, grandfather, or grandmother, the father or mother, grandfather, or grandmother of a deceased husband or wife, an unmarried sister, or any other of the relatives mentioned above who have attained the age of majority and are unable to take care of or support themselves. The right of the homestead exemption almost universally extends to the widow and minor children of the debtor.

In the following states, the debtor may waive the benefit of the exemption laws at the time of the levy or afterwards, either by express consent or by failure to claim the same: Alabama, Arkansas, California, Connecticut, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Missouri, New York, Ohio, Pennsylvania, South Carolina, and Texas; but in Tennessee it is held otherwise. Also, in the absence of statutory provision, it is generally held, except in Pennsylvania, that a debtor may not waive by executory agreement. A debtor, however, may waive by selling, pledging, or mortgaging the exempt property. As to homesteads, it is generally provided that any conveyance or encumbrance shall be valid only when executed by wife and husband, if both be living.

**Alabama.**—The homestead of any resident of this state, with the improvements and appurtenances, not exceeding in value \$2,000, and in area 160 acres, shall be exempt during his life and occupancy, and during the life of the widow and the minority of the child or children. There is exempt the personal property of such resident to the amount of \$1,000 in value, to be selected by him, and in addition thereto, all necessary wearing apparel for himself and family, and all family



portraits, pictures, and books; burial places and church pews; growing or ungathered crops; the interest of resident members of mutual-aid associations; and in favor of wife and minor children, insurance on the life of the husband to the amount of what an annual premium of \$500 would purchase; the wages, salaries, or other compensation of laborers and employes, to the amount of \$25 per month. To claim exemption, a declaration designating the property must be made and filed in the office of the judge of probate of the county in which the property is situated; and other declarations, from time to time, as occasion may require, may be made and filed; but the right of exemption is not waived by failure to file the declaration, but provisions are made for the claim where no declaration has been filed. The right of exemption may, however, be waived by an instrument in writing, and when such waiver relates to realty the instrument must be signed by both husband and wife and attested by one witness. As to personal property, the waiver may be made by a separate instrument in writing subscribed by the party, or it may be included in any bond, bill, note, or other written contract.

**Alaska.**—The homestead of any family, or the proceeds thereof, is exempt. Such homestead must be the actual abode of, and owned by, such family or some member thereof, and not exceed \$2,500 in value, nor 160 acres in extent, if not located in a town or city laid off into blocks or lots; or, if located in any such town or city, one-fourth of an acre. This exemption does not apply to decrees for the foreclosure of any mortgage properly executed; but if the owners of such homestead be married the mortgage must be executed by husband and wife. In addition, the following personal property is exempt: Earnings of judgment debtor, for personal services rendered within sixty days next preceding the levy of execution or attachment, when necessary for the use of his family, supported in whole or in part by his labor; books, pictures, and musical instruments owned by any person to the value of \$75; necessary wearing apparel owned by any person for the use of himself or family, but watches or jewelry exceeding \$100 in value are not exempt; the tools, implements, apparatus, team, vehicle, harness, or library necessary to enable any person to carry on the trade, occupation, or profession by which such person habitually earns his living, to the value of \$500; also sufficient quantity of food to support such team, if any, for six months; the word "team" being construed to include not more than one yoke of oxen, or a span of horses or mules, or two reindeer, or six dogs; the following property, if owned by the head of a family and in actual use or kept for use by and for his family, or when being removed from one habitation to another on a change of residence: Ten sheep, with one year's fleece or the yarn or cloth manufactured therefrom; two cows and five swine; household goods, furniture, and utensils to the value of \$300; also food

sufficient to support such animals, if any, for six months, and provisions actually provided for family use and necessary for the support of such person and family for six months; the seat or pew occupied by the head of a family or his family in a place of public worship; all property of any public or municipal corporation. No article, or the proceeds derived from its sale or exchange, is exempt from execution on a judgment recovered for its price.

**Arizona.**—The head of the family may hold as exempt real property to the value of \$2,500, to be selected on request of an officer after a writ of attachment or execution has issued; personal property to the value of \$500 to a family only, to be selected by the head of the family; the earnings of the debtor, for 30 days previous to levy, necessary for the support of his family.

**Arkansas.**—A resident who is married or the head of a family may hold as exempt either a country homestead not exceeding 160 acres of \$2,500 value, or 80 acres regardless of value, or in a city, 1 acre of like value, and in no event to be reduced to less than  $\frac{1}{4}$  acre. This exemption does not extend to claims against executors, administrators, guardians, receivers, attorneys for money collected, and other trustees for money due from them in their fiduciary character. Personal property of a resident who is married or the head of a family, in specific articles to be selected by such resident not exceeding \$500 in value, in addition to wearing apparel, is exempt; other residents have a like exemption to the value of \$200. The wife may join in a conveyance or encumbrance of the homestead.

**California.**—The homestead not exceeding \$5,000 in value of any head of a family, or \$1,000 of others, selected from the community property, or the separate property of the husband, or with the consent of the wife from her separate property, may be declared exempt. The provisions as to the exemption of personal property are very minute. In general, the following are exempt: Chairs, tables, desks, and books to the value of \$200; other necessary household furniture; family provisions for 3 months; 1 piano; 3 cows and 4 hogs; farming implements not over \$1,000; 2 oxen or 2 horses, cart, grain, not over \$200 in value, and 75 beehives; the tools of a mechanic or artisan, or the instruments, library, or other implements of any professional person necessary for his or her profession, including one bicycle and typewriters; the cabin of a miner not over \$500, and his mining claim not over \$1,000; 1 fishing boat and net not over \$500 in value of any fisherman; shares in a homestead association not exceeding \$1,000, provided such person have no homestead; benefits from life insurance if the annual premiums do not exceed \$500. Earnings of the debtor for 30 days preceding the levy, which earnings are necessary for the use of his family residing within the state; if not necessary for his family support



as aforesaid, one-half of the said earnings are subject to execution. The homestead of a married person cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered be executed and acknowledged by both husband and wife.

**Colorado.**—Every householder in the state, being the head of a family, shall be entitled to a homestead, not exceeding in value \$2,000, exempt from execution and attachment, by causing the word *homestead* to be entered of record in the margin of his record title to the property so claimed, which marginal entry shall be signed by the owner and attested by the clerk and recorder of the county in which the premises are situated, together with the date and time of day upon which said marginal entry is made. When any person dies seized of a homestead, leaving a widow or husband, or minor children, such widow or husband, or minor children, shall be entitled to the homestead exemption. Necessary wearing apparel of every person shall be exempt. The following property, when owned by any person being the head of the family, shall be exempt: Family pictures; school books and library; church pew; sites of burial of the dead; bedsteads and bedding; stoves and appendages, and cooking utensils kept for the use of the debtor and his family; and all the household furniture not enumerated hereinbefore, not exceeding \$100 in value; provisions for the debtor and his family for 6 months, and fuel for 6 months; tools, implements, or stock in trade of any mechanic, miner, or other person not exceeding \$200 in value; library and implements of professional men, not exceeding \$300 in value; working animals to the value of \$200; 1 cow, 1 calf, 10 sheep, and necessary food for said animals for 6 months, and necessary farming implements. There shall be exempt to any mechanic, miner, or any other person not being the head of a family, tools, implements, working animals, books, stock in trade not exceeding \$300 in value, used and kept for the purpose of carrying on his business. There shall be exempt \$60 of the amount due for wages or earnings of any debtor, provided such debtor shall be at the time of such levy the head of a family or the wife of the head of a family, and such family be dependent in whole or in part upon such earnings for support.

**Connecticut.**—One owning and actually occupying any building as a dwelling may execute and record a written declaration that it and the premises connected therewith are held by him as a homestead, and thereupon said real estate to the value of \$1,000 will be exempt. The following property is exempt: Necessary apparel, and bedding and household furniture necessary for supporting life; arms, military equipments, uniforms, or musical instruments owned by any member of the militia for military purposes; any pension moneys received from the United States; implements of the debtor's trade; library not exceeding \$500 in value; 1 cow, 10 sheep, 2 swine, 200 pounds of pork, poultry not exceeding \$25; to one having a wife or family, 25 bushels

charcoal, 2 tons coal, 200 pounds flour, 2 cords wood, 2 tons hay, 200 pounds beef, 200 pounds fish, 5 bushels potatoes, 5 bushels turnips, 10 bushels corn and rye, 25 pounds wool and flax; the bicycle of any physician; his horse not exceeding in value \$200, and his saddle, bridle, harness, and buggy; fishing boat with rigging not exceeding \$200; 1 sewing machine; 1 pew in church; 1 lot in burial ground. All benefits from charitable associations in case of illness or for aid of family are exempt from foreign attachment and execution. Except in actions for board, so much of any debt which has accrued by reason of the personal services of the debtor as shall not exceed \$50, including wages due for personal services of any minor child under the age of 21 years, shall be exempt.

**Delaware.**—There is no homestead law. The following property is exempt: Family books and pictures; wearing apparel of the debtor and his family; sewing machines in private families; lot in burial ground and pew in church; tools and implements used in the debtor's trade or business not exceeding \$75 in value. In addition, the head of a family in New Castle county is entitled to have set off to him other personal property out of his estate not exceeding \$200 in value, and in Kent county not exceeding \$150 in value; but in Sussex county there is no additional exemption. In New Castle county, wages are exempt from attachment execution.

**District of Columbia.**—The following property of the head of a family is exempt: Wearing apparel, household furniture, and the like, not exceeding \$300 in value; provisions and fuel for 3 months; implements of trade amounting to \$200, and \$200 worth of stock; library and implements of a professional man or artist, of the value of \$300; 1 horse, mule, or yoke of oxen; harness; 1 cart, wagon, or dray; farming utensils, with 3 months' food for team, and to a farmer, farming tools to the value of \$100; all family pictures, and the family library, not to exceed \$400; 1 cow, 1 swine, 6 sheep. The earnings, not exceeding \$100 per month for 2 months prior to issuing any writ are exempt to actual residents who are married, or who have to provide for a family.

**Florida.**—The following property is exempt: Real property to the extent of 160 acres outside of any incorporated town or city, and not to exceed  $\frac{1}{2}$  acre within the limits of any such city or town used only as the residence or business place of the owner; \$1,000 worth of personal property to every person who is the head of a family residing in this state. The wages of every laborer who is the head of a family are exempt from garnishment.

**Georgia.**—Each head of a family, or guardian or trustee of a family of minor children, or aged or infirm persons, or a person having the care and support of dependent females of any age, who is not the head of a family, is entitled to an exemption of realty or personalty,



or both, to the value of \$1,600. Wages of day laborers, journeymen, and mechanics are exempt from garnishment. The homestead to be available must be set aside by the ordinary of the county in which the debtor resides, upon written application or petition therefor, and upon notice to creditors. The debtor may, in writing, waive his rights to this exemption, except \$300 worth of household and kitchen furniture, and provisions and wearing apparel. The homestead or other exempt property may be sold by the debtor and his wife, if any, with the sanction of the judge of the superior court of the county where the debtor resides, or the land is situated.

**Idaho.**—Any head of a family may claim a homestead not exceeding in value \$5,000 upon which he is then actually residing, and any unmarried person, a homestead not exceeding \$1,000 in value, by filing with the county recorder a declaration to that effect. The following property is exempt: Necessary household and kitchen furniture, and provisions for the family for 6 months; certain farm animals with food for 6 months; tools and implements necessary to carry on the trade or profession of the debtor; office furniture and library not over \$200; miner's dwelling of the value of \$500, and implements of the value of \$250; shares not over \$1,000 in a building and loan association, provided such person have no homestead; all benefits from life insurance where the annual premium is not over \$250; personal earnings of the debtor, necessary for the support of his family, for 30 days preceding levy.

**Illinois.**—Every householder having a family is entitled to the exemption of a homestead of \$1,000 in value, in the farm or lot of land and buildings thereon. Such exemption continues for the benefit of the surviving husband or wife, and minor children. The proceeds of the sale of any homestead to the extent of \$1,000, for 1 year after the receipt of it, and insurance money for the loss of a building exempt as a homestead, are exempt. The following personalty of the debtor is exempt: Necessary wearing apparel, Bibles, school books, and family pictures; \$100 worth of other personal property, to be selected by the debtor, and, in addition, when the debtor is the head of the family and resides with the same, \$300 worth of other property, to be selected by the debtor, such selection not to include money, salary, or wages due the debtor. There is no exemption of personal property as against a debt for wages of any laborer or servant. The wages for services of the head of a family residing with the same, to the amount of \$8 per week, are exempt from garnishment.

**Indian Territory.**—The debtor is entitled to a homestead exemption. A resident head of a family is entitled to an exemption of \$500 besides wearing apparel; a resident not the head of a family has an exemption of \$200 besides wearing apparel.

**Indiana.**—There is no homestead law. Every resident householder may claim, as exempt, real or personal property, or both, at his selection, to the amount of \$600, as to any debt founded on contract. Twenty-five dollars of the debtor's wages is exempt from garnishment and on proceedings supplemented to execution so long as the employment continues. The debtor must file a schedule of all his property, and select the property claimed, which is then appraised. This exemption cannot be waived by contract.

**Iowa.**—Where there is no special declaration of the statute to the contrary, the homestead of every family, whether owned by the husband or wife, is exempt from judicial sale. A widow or widower though without children, shall be deemed a family while continuing to occupy the house used as such at the time of the death of the husband or wife. A conveyance of encumbrance by the owner is not valid unless the husband and wife, if the owner is married, concur in, and sign the same joint instrument. The homestead may be sold on execution for debts contracted prior to the purchase thereof, but it shall not in such case be sold except to supply the deficiency remaining after exhausting the other property of the debtor liable to execution. The homestead must embrace the house used as a home by the owner thereof, and if he has two or more houses thus used by him at different times and places, he may select which he will retain as his homestead. It may contain one or more lots or tracts of land, with the buildings thereon and other appurtenances, but must in no case embrace different lots and tracts unless they are contiguous, or unless they are habitually and in good faith used as a part of the same homestead, and if within a town plat it must not exceed  $\frac{1}{2}$  acre in extent, and if not within a town plat it must not embrace in the aggregate more than 40 acres. But if when thus limited in either case its value is less than \$500, it may be enlarged until its value reaches that amount. The homestead of every person, whether the head of the family or not, purchased and paid for with pension money of such person, or the proceeds or accumulations of such pension money, shall also be exempt, as now provided by the law of this state in relation to homesteads; and such exemption shall also apply to debts of such pensioner contracted prior to the purchase of such homestead.

If the debtor is a resident of this state and is the head of a family, he may hold exempt from execution the following property: All wearing apparel of himself and family kept for actual use and suitable to their condition, and the trunks or other receptacles necessary to contain the same; one musket or rifle and shot gun; all private libraries, family Bibles, portraits, pictures, musical instruments, and paintings, not kept for the purpose of sale; a seat or pew occupied by the debtor or his family in any house of public worship; an interest in a public or private burying ground, not exceeding 1 acre for any



defendant; 2 cows and 2 calves; 1 horse, unless a horse is exempt as hereinafter provided; 50 sheep and the wool therefrom and the materials manufactured from such wool; 6 stands of bees; 5 hogs, and all pigs under 6 months; the necessary food for all animals exempt from execution for 6 months; 1 bedstead and the necessary bedding for every two in the family; all cloth manufactured by the defendant not exceeding 100 yards in quantity; household and kitchen furniture not exceeding \$200 in value; all spinning wheels and looms, 1 sewing machine, and other instruments of domestic labor kept for actual use; the necessary provisions and fuel for the use of the family for 6 months; the proper tools, instruments, or books of the debtor, if a farmer, mechanic, surveyor, clergyman, lawyer, physician, teacher, or professor; the horse or the team, consisting of not more than 2 horses or mules, or 2 yoke of cattle, and the wagon or other vehicle, with the proper harness or tackle, by the use of which the debtor, if a physician, public officer, farmer, teamster, or other laborer, habitually earns his living; and to the debtor, if a printer, there shall also be exempt a printing press and the types, furniture, and material necessary for the use of such printing press and a newspaper office connected therewith, not to exceed in all the value of \$1,200. Poultry to the value of \$50 and the same to any woman whether the head of a family or not; and if the debtor be a seamstress, 1 sewing machine. The earnings of such debtor for his personal services, or those of his family, at any time within 90 days next preceding the levy, are also exempt from execution and attachment. Where he has started to leave this state, he shall have exempt only the ordinary wearing apparel of himself and family, and such other property in addition as he may select, in all not exceeding \$75 in value. There shall be exempt to an unmarried person not the head of a family, and to non-residents, their own ordinary wearing apparel and trunk necessary to contain the same, and none of the above exemptions shall be allowed against an execution issued for the purchase money of property claimed to be exempt, and on which such execution is levied. All money received by any person, a resident of the state, as a pension from the United States government, whether the same shall be in the actual possession of such pensioner, or deposited, loaned, or invested by him, shall be exempt from execution or attachment, or seizure by or under any legal process whatever, whether such pensioner shall be the head of a family or not.

**Kansas.**—A homestead of 160 acres of farming land, or 1 acre in a town or city occupied as a residence by the family of the owner, is exempt. When the debtor is the head of a family, the following personal property is exempt: School books, family library, musical instruments used by the family; all wearing apparel; all beds, bedsteads, and bedding used by debtor and family; cooking stoves and

appendages; all cooking utensils and other stores necessary for use of the debtor and family; 1 sewing machine and other household furniture not exceeding in value \$500; 2 cows, 10 hogs, 1 span of horses or mules, 20 sheep, and necessary food for their support for 1 year; 1 wagon, cart, or dray; 2 plows, 1 drag, harness and tackle for teams, and other farming utensils not exceeding in value \$300; provisions on hand for the support of debtor and family for 1 year, and fuel on hand for 1 year; necessary tools and implements of any mechanic, miner, or other person, and stock in trade not exceeding \$400; library, implements, and office furniture of a professional man. A person not the head of a family has as exempt, wearing apparel, tools, instruments, or library of a mechanic, miner, or professional man, as aforesaid. The personal earnings of the debtor for 3 months preceding, and 3 months' pension money, are exempt if necessary for the support of the debtor's family. A debtor is not bound by an agreement to waive the benefit of the exemption. The homestead may be conveyed or encumbered by joinder of husband and wife in the deed or other instrument.

**Kentucky.**—A homestead worth \$1,000 is exempt to a *bona-fide* housekeeper with a family residing thereon, except as to debts contracted before the purchase of the land or erection of improvements thereon. Personal property exempt as to residents includes the following: Tools of a mechanic up to \$100; the professional library of a lawyer, clergyman, or physician up to \$500; wearing apparel; certain farm animals; certain articles of household furniture, and provisions for the family for 1 year. Wages earned and payable out of this state are exempt in all cases where the cause of action arose out of the and it is the duty of the garnishees in such cases to plead exemption state, unless the defendant is actually served with process.

**Louisiana.**—There is exempt to the head of a family real estate occupied as a residence, together with certain furniture, stock, implements, and provisions, the property not to exceed in value \$2,000, provided the debtor execute a written declaration of homestead, and register the same if in the parish of Orleans. There is no such exemption if the wife have separate property worth over \$2,000. The following property is also exempt: The linen of the debtor or his wife; his bed and those of his family; his arms and military accouterments; tools, instruments, books; sewing machines used in the debtor's trade; the rights of personal servitude, of use, and habitation, of usufruct to the estate of a minor child; the income of dotal property; portraits, musical instruments, and certain other articles; and the salary of an officer, and wages or recompense for personal services.

**Maine.**—Real estate to the value of \$500 may be secured as a homestead and be exempt by filing in the office of the register of deeds a certificate of the land to be so secured, before levy. The



following personal property is exempt: Wearing apparel; \$100 worth of household furniture necessary for the family; 1 bedstead, bed, and bedding for each two members; family portraits; Bible; school books in actual use; copy of state statutes; library worth \$150; pew in use; 1 cooking stove and all iron warming stoves; charcoal; 12 cords of wood at home for use; 5 tons of anthracite and 50 bushels of bituminous coal; \$10 worth of lumber, wood, or bark; all produce till harvested; 1 barrel of flour; 30 bushels of corn; grain; all potatoes raised or bought for debtor or his family;  $\frac{1}{2}$  acre of flax and manufactures therefrom for use; tools of trade; \$50 worth of materials and stock procured and necessary for trade or business; 1 sewing machine worth \$100; 1 pair of working cattle, or 1 pair of horses or mules worth \$300, and hay to keep them through the winter; 1 harness worth \$20 for each horse or mule; 1 horse sled or ox sled; 2 swine, 1 cow, and 1 heifer under 3 years, or 2 cows if no oxen, horse, or mule; 10 sheep with their wool, and lambs until 1 year old; hay sufficient to keep the aforesaid cattle through the winter; \$50 worth of domestic fowl; 1 plow; 1 cart or truck wagon, or 1 express wagon; 1 harrow; 1 yoke with bows, ring, and staple; 2 chains; 1 mowing machine; 1 boat of 2 tons employed in fishing and owned exclusively by an inhabitant of the state; life- and accident-insurance policies except excess of annual cash premiums for 2 years above \$150; 2 shares in loan and building associations, and benefits from a fraternal organization; 1 month's wages for personal labor not exceeding \$20, except for necessities.

**Maryland.**—There is no homestead law. As to *bona-fide* residents of this state, wearing apparel, books and tools not kept for sale, and \$100 worth of property in addition, are exempt from execution, except on judgments for breach of promise to marry and for seduction. Wages to the value of \$100 are exempt.

**Massachusetts.**—The debtors' homestead to the extent of \$800 in value is exempt, provided it be declared in the conveyance to be designed for a homestead, or such design be declared by a writing signed, sealed, acknowledged, and recorded. The following personal property is exempt: Necessary wearing apparel; 1 bedstead and bedding for every two members of the family; 1 iron stove and fuel to the value of \$20; other necessary household furniture to the value of \$300; books to the value of \$50; 1 cow, 6 sheep, 1 swine, and 2 tons of hay; tools necessary in business to the value of \$100; materials and stock in his business to the value of \$100; provisions to the value of \$50; 1 pew; 1 boat, fishing tackle, and nets of a fisherman to the value of \$100; uniforms and arms of an officer or soldier in the militia; rights of burial and tombs in use; 1 sewing machine in use to the value of \$100; shares in certain cooperative associations to the value of \$20 in the aggregate, and benefits from fraternal organizations; wages to the amount of \$20.

**Michigan.**—A homestead of 1 lot in any town or city, or not more than 40 acres of land outside, not exceeding \$1,500 in value, owned and occupied by a resident of the state, is exempt. The following property is also exempt: Spinning wheels, weaving looms, and stoves for use in any dwelling house; a pew in a church and a lot in a cemetery if used; arms required by law to be kept; all wearing apparel of every person or family; library and school books not exceeding in value \$150; 1 sewing machine; all family pictures; to each householder, 10 sheep, 2 cows, and 5 swine, 6 month's provisions and fuel, and household goods, furniture and utensils not exceeding in value \$250; to each debtor, the tools, implements, materials, stock, apparatus, team, vehicle, horses, harness, or other things not exceeding in value \$250, to enable him to carry on the business in which he is principally engaged; a sufficient quantity of hay, grain, and feed for properly keeping for 6 months such exempt animals. A non-resident cannot avail himself of the exemption law. In case of partnership, each partner is entitled to the exemption of the tools, implements, materials, stock, and the like, as mentioned hereinbefore. The wages of any head of a family to the extent of \$25 are exempt. No lien can be created on any of the foregoing property, except on the tools, implements, materials, stock, and the like, as mentioned hereinbefore, without the signature of the wife to the mortgage.

**Minnesota.**—There is exempt a homestead not exceeding 80 acres and dwelling house thereon and appurtenances, not included in the laid-out part of a city, town, or village of less than 5,000, while owned and occupied by any resident of the state; or acre in a town or city not incorporated and of less than 5000 inhabitants, or 1 lot in larger cities or towns, with the buildings thereon, without regard to value. Whenever the owner of a homestead removes therefrom and ceases to occupy the same as a homestead for 6 months, his right to claim the same as exempt expires, unless before the end of the 6 months the owner file in the office of the register of deeds a notice particularly designating his homestead and claiming it as such, and in this way the exemption may be continued 5 years. The following property is exempt: Family Bible; family pictures; school books, or library and musical instruments for use of family; lot in burial ground; wearing apparel; all beds, bedsteads, and bedding, stoves and appendages, and cooking utensils; sewing machine; bicycle; typewriter machine, kept and used by debtor and his family, and other household furniture not exceeding \$500 in value; insurance money arising from exempt property destroyed by fire; also, the following property belonging to a debtor having an actual residence in this state: Three cows, 10 swine, 1 yoke of oxen and a horse, or a span of horses or mules, 20 sheep and the wool from the same, and necessary feed for such stock for 1 year, 1 wagon, cart, or dray, 1 sleigh, 2 plows, 1 drag, and other farming utensils not



exceeding \$300 in value; provisions and fuel necessary for debtor and family for 1 year; 1 watch; tools and instruments of any mechanic, miner, or other person, used and kept for the purpose of carrying on his trade, and in addition thereto stock in trade not exceeding \$400; the library and implements of any professional man; all presses, stones, type cases and other tools and implements used by any printer, publisher, or editor of any newspaper, and in printing and publishing of the same, not to exceed in value \$2,000, together with stock in trade not exceeding \$400 in value; necessary seed grain for one season; the wages of any laboring man or woman, or of his or her minor children, not exceeding \$25, for services rendered during the preceding 30 days.

**Mississippi.**—One hundred and sixty acres of land in the country, or a town residence not exceeding \$2,000 in value, may be exempt as a homestead. The owner of a homestead may designate the land claimed as such, by a writing duly acknowledged and recorded, and thus secure exempt property worth \$3,000 instead of \$2,000. The following property is exempt: Mechanics' tools; the agricultural implements of a farmer necessary for two male laborers; the implements of a laborer; the books of a student required to complete his education; the wearing apparel of every person; libraries of lawyers, doctors, and ministers not exceeding \$250 in value; instruments of surgeons and dentists not exceeding \$250 in value; the arms and accouterments of militiamen; books, maps, globes, and the like, used by teachers of schools. The following property to the head of a family is exempt: Two work horses or mules, 2 oxen, 2 cows and calves, 20 head of hogs, 20 sheep or goats; 250 bushels of corn, 10 bushels wheat or rice, 500 pounds pork or bacon; 1 wagon, buggy, or cart, and harness; 500 bundles of fodder; 1 sewing machine; all colts under 3 years of age raised in the state by the debtor; 100 bushels of cottonseed; 40 gallons of sorghum; 1,000 stalks of sugar cane; 1 bridle and saddle, and side saddle; household and kitchen furniture not exceeding in value \$200; all poultry; 1,000 pounds of hay; 1 sorghum mill worth not over \$150; proceeds of insurance policy on exempt property. A resident, being a householder, of a city or town, having a family, may select \$250 worth of property in lieu of the personalty hereinbefore mentioned. The proceeds of life insurance not exceeding \$10,000 upon one life inures to the parties named as beneficiaries therein, exempt from liability for the debts of the person whose life was insured. Proceeds of life insurance not exceeding \$5,000, payable to the executor or administrator of the insured, shall inure to the heirs or legatees free from liability for the debts of the decedent, except where such person's life is insured for the benefit of such heirs or legatees at the time of his death in addition, which additional insurance must be deducted from the \$5,000 and the excess only shall be exempt. The wages of every person being the head of a family to the extent of

\$100, and of every other person to the extent of \$20, are exempt. Exempt property may be conveyed as security for debt, but exemptions cannot be waived.

**Missouri.**—The homestead exempt to the head of a family may be of the value of \$1,500 in the country, or in towns and cities of less than 40,000 inhabitants, and of the value of \$3,000 in cities whose population exceeds that number. To one not the head of a family nothing is exempt but wearing apparel and the necessary tools and implements of a mechanic. To the head of a family there is exempt \$500 worth of personalty further. A non-resident defendant, or one about to leave the state, has no exemption. When a defendant has absconded, his wife may claim exemption up to \$300. No property is exempt from levy for wages of a house servant or common laborer up to \$60, if suit be commenced within 6 months after the services were rendered. Wages for 30 days preceding are exempt to the head of a family.

**Montana.**—The homestead exempt must not be over \$2,500 in value, and may be either 160 acres of agricultural land, or  $\frac{1}{4}$  acre with the dwelling house thereon in a city or town. The following property is exempt: All wearing apparel of debtor and family; table and kitchen furniture; provisions and fuel sufficient for 2 months; 1 horse, 2 cows, 2 swine, and 50 domestic fowls. In addition to the foregoing, to a farmer, there is exempt farming implements not exceeding in value \$600; 2 oxen, 1 horse or mule, and their harness, 1 cart or wagon, and food for such animals for 3 months; all seeds for the purpose of sowing at any time within 6 months, not exceeding the sum of \$200; to a mechanic, implements necessary to carry on his trade; and to a physician, surgeon, or dentist, the instruments necessary to carry on his profession, with his scientific and professional libraries; to attorneys-at-law and ministers, their libraries; to a miner, tools and implements necessary to carry on his trade, not exceeding the sum of \$500, also 1 horse, mule, or 2 oxen, with their harness; to a family, 1 sewing machine not exceeding in value \$100; the earnings of a debtor for his personal services rendered at any time within 30 days next preceding the levy.

**Nebraska.**—Heads of families shall have exempt a homestead, not exceeding in value \$2,000, consisting of a dwelling in which the claimant resides and appurtenances, and 160 acres of land on which the same is situated, or 2 contiguous lots in any incorporated city or village. If the claimant have no such homestead, he shall have exempt the sum of \$500 in personal property. The following personalty is exempt: Family Bible, pictures, school books, and library; a pew in a place of worship; a lot in any burial ground; all necessary wearing apparel of the debtor and his family; all beds, bedsteads, and bedding necessary for the use of such family; all stoves and appendages, not to



exceed four; all cooking utensils, and all other household furniture not herein enumerated, to be selected by the debtor, not exceeding in value \$100; 1 cow, 3 hogs, all pigs under 6 months old, and, if the debtor be engaged in agriculture, in addition to the above, 1 yoke of oxen, or a pair of horses in lieu thereof; 10 sheep and the wool therefrom, either raw or manufactured; all necessary food for the stock herein mentioned for 3 months; 1 wagon, cart, or dray; 2 plows and 1 drag; the necessary gearing for the team; and other farming implements not exceeding \$50 in value; the provisions necessary for the support of debtor and family, and fuel for 6 months. Any mechanic, miner, or other person, whether the head of a family or not, shall have exempt the tools and instruments used and kept for his trade or business, and any professional man, likewise, shall have his library and implements exempt. In addition to the foregoing, every resident of the state who became disabled in the service of the United States shall have exempt all pension money received, and all property purchased and improved therewith, not exceeding \$2,000 in value. Sixty days' wages of laborers, mechanics, and clerks who are heads of families, are exempt.

**Nevada.**—A homestead not exceeding \$5,000 in value is exempt. Personal and mining property is exempt as in California. Fifty dollars of the earnings of the debtor, if earned within 30 days preceding, are exempt, if necessary for the support of the debtor or his family.

**New Hampshire.**—A homestead to the value of \$500 is exempt. The following personalty is exempt: Necessary wearing apparel; necessary beds and bedding; household furniture to the value of \$100; 1 cooking stove and its furniture; 1 sewing machine kept for use; provisions and fuel to the value of \$50; library to the value of \$200; tools of one's occupation to the value of \$100; 1 hog and 1 pig and pork of same; 6 sheep and fleeces; 1 cow; 1 yoke of oxen or a horse when required for actual use; 4 tons of hay; a pew in a meeting house, and 1 burial lot. Personal earnings to the amount of \$20 are exempt from trustee process, unless the claim be for necessities.

**New Jersey.**—The lot and buildings thereon, owned and occupied by the debtor being the head of a family, to the value of \$1,000, provided that in the debtor's deed it be set out that the property is intended for a homestead, or else that notice to such effect be filed in the county clerk's office, are exempt; also, personal property to the amount of \$200, besides wearing apparel, and tools of his trade, owned by the resident head of a family. The widow and minor children of a deceased or absconding debtor may claim the same exemption of \$200. Wages of a non-resident employe cannot be attached at the suit of a non-resident creditor.

**New Mexico.**—A homestead to the value of \$1,000 is exempt. Every person who has a family and every widow may hold the following

property exempt from execution, attachment, or sale, for any debt, damage, fine, or amercement except taxes: The wearing apparel of such person or family, beds, bedsteads, and necessary bedding, 1 cooking stove and pipe, 1 heating stove and pipe and fuel sufficient for 60 days, 1 cow, 2 swine, 6 sheep, and sufficient food for such animals for 60 days, or in lieu of such animals, if debtor does not have them, household furniture to be selected by the debtor not exceeding \$75 in value, provisions actually provided and designed for the use of such family not exceeding \$50 in value, and other household and kitchen furniture, or either, necessary for such family not exceeding \$200 in value, also 1 sewing machine, 1 knitting machine, 1 gun or pistol, and the tools and implements of the debtor necessary for carrying on his trade or business, whether mechanical or agricultural, not exceeding \$150 in value; the personal earnings of the debtor and the personal earnings of his minor children for 3 months, when it is made to appear by affidavit that such earnings are necessary to the support of such family; all articles, specimens, and cabinets of natural history or science, whether animal, vegetable, or mineral, except such as may be intended for show or exhibition for money or pecuniary gain. To draymen, 1 horse, harness, and wagon; to a farmer, 2 horses or 1 yoke of cattle and necessary gearing for same and wagon; to a doctor, horse, bridle, and saddle, books, and instruments pertaining to his profession not exceeding \$100 in value; to a lawyer, books not to exceed \$500 in value; to unmarried women, wearing apparel not exceeding \$150, 1 sewing and 1 knitting machine and books to the value of \$50, and, if engaged in teaching music, 1 piano or organ.

**New York.**—A homestead to the value of \$1,000, if so designated in the deed or by notice recorded, is exempt to the head of a family or a married woman, and a decedent's widow or minor children; also, the following personalty of a householder: All spinning wheels, weaving looms, stoves; 1 sewing machine; family Bible and pictures; school books; other family books up to \$50; church pew; 10 sheep, 1 cow, 2 swine; necessary food for such animals; 60 days' provisions for the family; wearing apparel of family; certain household articles, and all mechanic's tools not over \$25 in value; household furniture; working tools and teams; professional instruments; furniture and library, not exceeding \$250 in value, except as to judgments for work, as a family domestic; military pay, pensions, and burial lots; \$1,000 of shares in homestead companies, if the debtor be not the owner of a homestead; personal earnings of a debtor for 60 days, where necessary for support of the family. It is provided by a statute, passed in 1903, that where the judgment is wholly for necessities sold, a domestic's wages or an employe's salary, and the debtor is or may be entitled, from wages, debts, earnings, salary, income from trust funds or profits to an amount exceeding \$20 per month, the court may (execution having



been returned unsatisfied in whole or in part and no execution being outstanding) issue an order levying a new execution on property of the judgment debtor to an extent of the 10 per cent. thereof, until payment of the execution.

**North Carolina.**—Real estate not to exceed \$1,000 in value is exempt to a resident; also, personal property to the value of \$500; but the homestead is not exempt from liability to be sold for contract made for the purchase of the same, or liens of mechanics and laborers, or for taxes. The homestead remains to the widow and infant children, until the youngest child attains the age of 21 years. Each partner of a partnership may, with the consent of his copartner, take his exemptions out of the partnership property. Exemptions cannot be waived by a stipulation in the contract sued upon.

**North Dakota.**—A homestead not exceeding \$5,000 in value is absolutely exempt; also, the following property: All family pictures; church pew; lot in burial ground; family Bible; school books; other family books up to \$100; wearing apparel of the debtor and his family; and 1 year's provisions and fuel for the family. In addition to the foregoing, the head of the family may select from all his other personal property not absolutely exempt personalty not to exceed \$1,000 in value.

**Ohio.**—Husband and wife living together, a widow or a widower living with an unmarried daughter or unmarried minor son, may hold as exempt a family homestead not exceeding \$1,000 in value. Every person who has a family, and every widow, may hold exempt: Wearing apparel; beds and bedding; 2 stoves, and fuel for 60 days' use; 1 cow, or household furniture not exceeding \$35 in value; 2 swine, or furniture not exceeding \$15 in value; sufficient food for such animals for 60 days; Bible and school books used in the family, and family pictures; provisions of such family not exceeding \$50 in value; other articles of house and kitchen furniture not exceeding \$50 in value; 1 sewing machine; 1 knitting machine; the tools and implements of the debtor necessary for carrying on his or her trade or business, not exceeding \$100 in value; and all articles, specimens, and cabinets of natural history or science, except such as may be kept or intended for exhibit for pecuniary gain. In addition, every drayman may hold 1 horse, harness, and dray; every farmer, 1 horse or 1 yoke of cattle, with the necessary gearing for same, and 1 wagon; and every physician, 1 horse, 1 saddle and bridle, and also books, medicines, and instruments pertaining to his profession, not exceeding \$100 in value. Every unmarried person may hold as exempt wearing apparel, not exceeding in value \$100; 1 sewing machine; 1 knitting machine; a Bible, and other books not exceeding in value \$25. Any beneficiary fund not exceeding \$5,000 paid by any benevolent association to the family of any deceased member is exempt from the payment of any debts of such

deceased member. Husband and wife living together, a widower living with an unmarried daughter or minor son, every widow or unmarried female having the care, maintenance, and custody of any minor child or children of a deceased relative, resident of Ohio, and not the owner of a homestead, may in lieu thereof hold as exempt real or personal property, to be selected at any time before sale, not exceeding \$500 in value, in addition to the chattel property otherwise exempted. The personal earnings of a debtor, and the personal earnings of his or her minor child or children for 3 months, when such earnings are necessary to the support of such debtor, or his or her family, are exempt; provided, that if the claim, debt, or demand be for necessities furnished to the debtor, his wife, or family, then only 90 per cent. of his personal earnings shall be so exempt.

**Oklahoma.**—A homestead of 160 acres, or 1 acre in a city or town, is exempt; also, household and kitchen furniture; implements of husbandry; tools and books used in trade or profession; wearing apparel; family portraits and library; certain farm animals and fodder for same for 1 year, and burial lots to the head of a family; to other persons burial lots; wearing apparel; tools and books, and 1 horse, bridle, and saddle, or 1 yoke of oxen; all pension money. No property is exempt from attachment for the wages of a laborer, servant, clerk, or mechanic. Current wages and earnings for personal or professional services earned within 90 days are exempt.

**Oregon.**—Homesteads are exempt not exceeding \$1,500 in value or 160 acres in extent, or one block, if in a city. The following property is exempt: Books, pictures, and musical instruments to the value of \$75; wearing apparel to the value of \$100, and \$50 for each member of the family; tools, implements, apparatus, team, library, and the like, to enable one to carry on trade, occupation or profession, to the value of \$400; food for team for 60 days; to a householder, 10 sheep, with fleece, 2 cows, 5 swine, household goods, and the like, to the value of \$300; food for animals for 3 months, and for the family for 6 months, and a church pew; earnings of the debtor for 30 days, when necessary for family support.

**Pennsylvania.**—Property either real or personal to be selected by the debtor to the value of \$300, and all wearing apparel of the defendant and his family, Bibles and school books in use in the family, shall be exempt from levy and sale on execution issued upon any judgment obtained upon contract, or by distress for rent. The widow or family of a decedent is entitled to the same exemption. Sewing machines of seamstresses or in private families, leased pianos, organs, or typewriters are exempt from distress for rent, if the owner thereof give notice to the landlord. No exemption is allowed where the judgment is obtained for manual labor for a sum of \$100 or less, nor where



the judgment is for 4 weeks' board or less. A non-resident cannot avail himself of the exemption, nor can a partnership nor a corporation. The wages of any laborers, or the salary of any person in public or private employment, shall not be liable to attachment in the hands of the employer, except for 4 weeks' board. This right cannot be waived. The debtor may waive the benefit of the exemption laws at any time by express agreement. Besides, he may waive the benefit of all exemption laws by executory agreement, as by inserting a waiver clause in a note, lease, or other contract.

**Rhode Island.**—Necessary wearing apparel of the debtor and his family, working tools not exceeding \$200 in value, including the professional library of any professional man in actual practice, and household food to the value of \$300, are exempt, if the debtor be a householder.

**South Carolina.**—The head of a family has a homestead exemption up to \$1,000; also, \$500 worth of personalty. Other persons have as exempt personalty, consisting of wearing apparel, tools, implements of trade, or other property not to exceed in value \$300. After the homestead has been set off and recorded, the exemption may not be waived by deed, mortgage, or otherwise, unless the same be executed by both husband and wife, if both be living.

**South Dakota.**—A homestead valued at less than \$5,000, of 160 acres, or 1 acre in a town, is exempt even from sale under a mechanic's lien. The following is absolutely exempt: Family pictures; church pew; burial lot; family Bible; school books; other family books up to \$200; wearing apparel, and family provisions and fuel for 1 year. In addition, the head of a family may select \$750 worth of personalty, and a single person \$300 worth.

**Tennessee.**—A homestead not exceeding \$1,000 in value is exempt. Exemptions include certain necessary furniture and household goods, mechanics' tools and implements, household supplies, and certain farm animals and implements. The wages of mechanics and other laboring men not over \$30 in amount are exempt.

**Texas.**—A homestead of 200 acres in the country, or city or town lots not exceeding \$5,000 in value, is exempt. The following is exempt to the head of a family: Household and kitchen furniture; implements of husbandry; tools and books of any trade or profession; family books and pictures; certain farm animals; 1 wagon and 1 carriage, 1 gun, saddle, and bridle, and provisions and forage for home consumption. To others, wearing apparel, tools and books of trade or profession, 1 horse, saddle, and bridle, are exempt. Cemetery lots are exempt; also, current wages for personal services.

**Utah.**—There is allowed to the head of a family an exemption of a homestead not exceeding \$1,500 in value for the debtor, and the

further sum of \$500 in value for his wife, and \$250 in value for each other member of his family. The following property is exempt: Chairs, tables, and desks to the value of \$200; the entire library; necessary household furniture to the value of \$300; musical instruments in actual use; portraits and paintings; farming utensils and the team of the farmer, and tools of a mechanic to the value of \$500; the instruments and professional library of a physician, surveyor, and dentist; the law library and office furniture of attorneys and judges, and the libraries of ministers of the gospel; typewriting machine of a stenographer; cabin or dwelling of a miner to the value of \$500, also, his sluices, pipes, hose, windlass, and the like, to the value of \$500; the team, wagon, and harness of a cartman, drayman, or other laborer; vehicle and harness of a physician or a minister; and all moneys from any life insurance on the life of the debtor if the annual premiums paid do not exceed \$500; all earnings of the debtor for personal services for 60 days.

**Vermont.**—A homestead to the value of \$500 is exempt; also, the following property: Suitable apparel; bedding; tools; necessary household furniture; certain farm animals and fodder for the same; 10 cords of wood; 5 tons of coal; 20 bushels of potatoes; growing crops; family Bible and other books; church pew; \$10 worth of poultry; professional books and instruments not over \$200 in value; 1 yoke of oxen; 2 horses not over \$200 in value; 1 wagon, harness, and certain other articles.

**Virginia.**—A householder and head of a family is entitled to a homestead exemption of the value of \$2,000. There are exempt: Family Bible and pictures; books to the value of \$100; church pew; burial lot; family beds and bedding; various articles of housekeeping; sewing machine; mechanics' tools to the value of \$100; seaman's or fisherman's boat to the value of \$200; and to a farmer, a yoke of oxen or a pair of mules, and farming implements. There is no exemption as to claims for services of a laborer or a mechanic, for liabilities incurred by a public officer or any fiduciary or attorney for money collected, for an officer's fees, or for rent. Wages of a householder not exceeding \$50 a month are exempt. The homestead to be exempt must be recorded as such in the county or corporation wherein it is located. The widow and children of the debtor may claim it. The exemption of personalty cannot be waived. The homestead may be conveyed or encumbered only by the joint act of husband and wife.

**Washington.**—A homestead to the value of \$2,000 is exempt to every householder being the head of a family. The following property is exempt: Wearing apparel; libraries to the value of \$500; family pictures; bedding and furniture to the value of \$500; certain farm animals, or other selected property to the value of \$250; to a farmer, a team of horses or mules with harness, or two yoke of oxen,



and farming utensils to the value of \$500; to a mechanic, tools to the value of \$500; to a physician, library to the value of \$500, horse and buggy, and instruments to the value of \$200; to other professional men, library to the value of \$1,000, and office furniture to the value of \$200; firearms; boat to the value of \$250; proceeds of all life and accident insurance; and all pension money. This benefit does not extend to non-residents, nor to those about to leave the state; nor to claims for clerks', laborers', or mechanics' wages. Wages, of any person having a family to support, to the extent of \$100 are exempt. For a married person to waive the benefit of the exemption laws, both husband and wife must join in the agreement in writing.

**West Virginia.**—Husbands, parents, and infant children of deceased parents may have set aside a homestead valued at \$1,000, declaration of which must be recorded prior to contracting the debt. Parties as aforesaid may have exempt \$200 worth of personal property. Resident mechanics or laborers may hold exempt \$50 worth of tools.

**Wisconsin.**—Real estate to the value of \$5,000 and to the extent of  $\frac{1}{4}$  acre in a city or village, or of 40 acres used for agricultural purposes elsewhere, is exempt as the debtor's homestead, when occupied by him or when he is only temporarily absent therefrom; also its proceeds to the amount of \$5,000, while held, for not more than 2 years, with the intention of buying another homestead therewith. Chattels exempt from execution are: the debtor's library, wearing apparel, beds and bedding, stoves and cooking utensils, and other furniture to the amount of \$200; 2 cows, 10 swine, 2 horses or mules (or, in lieu of one of these last, 1 yoke of oxen), 10 sheep and their wool, and 1 year's food for all this stock; 1 wagon, 1 sleigh, 1 plow, 1 drag, and \$50 worth of other farming utensils; 1 year's provisions for the debtor and his family; tools and implements, or stock in trade to the value of \$200; all sewing machines kept for family use; printing materials and presses of any printer or publisher to the value of \$1,500, except that as to claims of laborers and servants, for services only, \$400 shall be exempt; an inventor's interest in his own patents; all insurance moneys arising from the loss of any exempt property. These exemptions, except those of clothing, household outfit, and earnings, exist only in favor of actual residents of the state. They are not available to corporations, but are, practically, to the partners in a firm, out of the firm property. If the debtor do not claim his exemptions, his wife may. Three months' earnings of the debtor, not exceeding \$60 per month, are exempt. The benefit of exemptions cannot be waived before levy.

**Wyoming.**—A homestead valued at \$1,500, and consisting either of a house and town lot, or a farm of not more than 160 acres, is exempt. Wearing apparel of all persons is exempt; to a mechanic or

miner, \$300 worth of tools, or stock; to a professional man, \$300 worth of books or instruments; to a resident head of a family, family Bible, school books, pictures, burial lot, and provisions and household furniture to be selected to the value of \$500.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Real estate to the value of \$2,500 may be registered as a homestead, and be exempt. Goods and chattels of a debtor, except stock in trade, at his option, to the value of \$500, are exempt.

**Manitoba.**—A homestead consisting of a farm of 160 acres, or a residence to the value of \$1,500, is exempt. The following property is exempt: Bedding and furniture to the value of \$500; necessary clothing; 12 books; books of a professional man; 1 ax; 1 saw; 1 gun; 6 traps; necessary food for family for 11 months; certain farm animals and food for same; necessary tools and implements to the value of \$500; seed necessary for 80 acres; wages to the extent of \$25. Exemptions cannot be waived.

**New Brunswick.**—Wearing apparel, bedding, kitchen utensils, and tools of trade to the value of \$100 are exempt; also, wages to the extent of \$20.

**Nova Scotia.**—Wearing apparel, bedding, tools of trade, certain household articles, food and fuel for 30 days, and certain domestic animals, with food for 30 days for same, are exempt.

**Ontario.**—Lands acquired under the free grant and homestead act are exempt for a period of 20 years from the location of the land, if no alienation have taken place. Beds, bedding, and wearing apparel of debtor and family, stove and furnishings, and other articles of household furniture, not exceeding in value \$150; necessary fuel and provisions for debtor and family, not exceeding in value \$40; 1 cow and some other domestic animals, not exceeding in value \$75; tools and implements ordinarily used in debtor's occupation, to the value of \$100, are exempt.

**Quebec.**—Beds, bedding, and apparel of debtor and family; certain household articles; 50 volumes of books; food and fuel for family for 3 months; certain farm animals; \$200 worth of professional books; \$200 worth of tools of trade; pensions, and certain other articles, are exempt. A certain portion only of the salaries of public employes can be seized; teachers' salaries are exempt; also, three-fourths part of the wages due laborers who are paid by the day, the week, or the month.



## FRAUDS, STATUTE OF

The English Statute of Frauds, 29 Car. II, c. 3, enacts in the first three sections as follows: "All leases, estates, interests of freehold or terms of years or any uncertain interest of, in, or out of any messuages, manors, lands, tenements, or hereditaments, made or created by livery and seisin only or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage, to the contrary notwithstanding. Except nevertheless, all leases not exceeding the term of 3 years from the making thereof, whereupon the rent reserved to the landlord during such term shall amount to two-third parts at least of the full improved value of the thing demised. And, moreover, that no leases, estates, or interests, either of freehold or terms of years, or any uncertain interest, not being copyhold or customary interest, of, in, to, or out of any messuages, manors, lands, tenements, or hereditaments, shall be assigned, granted, or surrendered, unless it be by deed or note in writing signed by the party so assigning, granting, or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law." These provisions have been substantially adopted in Arkansas, Georgia, Maine, Massachusetts, Missouri, New Hampshire, New Jersey, Pennsylvania, South Carolina, and Vermont, save that in Arkansas, Georgia, Massachusetts, Missouri, and South Carolina the exception applies to leases not exceeding 1 year. In the greater number of jurisdictions, however, it is provided that every contract for leasing for a longer period than 1 year, or for the sale of any land or interest in lands, is void unless in writing and signed as aforesaid. The form required for conveyances of any interest in real estate is treated in this appendix under the heading of Deeds.

The fourth section of the statute enacts as follows: "No action shall be brought (1) whereby to charge any *executor* or *administrator* upon any special promise to answer damages out of his own estate; (2) or whereby to charge the defendant upon any special promise to answer for the *debt, default, or miscarriage* of another person; (3) or to charge any person upon any agreement made in *consideration of marriage*; (4) or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them; (5) or upon any

*agreement that is not to be performed within the space of 1 year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith or some other person thereunto by him lawfully authorized."* All the clauses of this section have been quite generally adopted in the United States and in Canada with slight modifications. The fourth clause is to be taken in connection with the first three sections of the act. The fifth clause of this section has added to it the words, "by its terms," as reenacted in Alabama, Arizona, California, Colorado, Idaho, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, New York, Oregon, Utah, Washington, Wisconsin, and Wyoming.

Sections seven, eight, and nine of the statute enact that: "All declarations or creations of trust or confidences, of any lands, tenements, or hereditaments, shall be manifested and proved by the same writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect. Provided always, that where any conveyance shall be made of any lands or tenements, by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law; then, and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this statute had not been made; anything hereinbefore contained to the contrary notwithstanding. All grants or assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or device, or else shall likewise be utterly void and of none effect." The provisions of these sections have been quite generally adopted in the United States and Canada, especially the seventh section, as in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Vermont, and Wisconsin; and in New Jersey and New York it is provided that all grants and assignments of existing trusts must be in writing whether they apply to real or personal property. However, the states of Kentucky, North Carolina, Texas, and Virginia, although they have adopted the provision of the fourth section as to contracts for the sale of land, have not adopted the seventh section.

The seventeenth section of the same statute enacts "that no contract for the sale of goods, wares, and merchandise for the price of 10 pounds sterling or upwards shall be allowed to be good, except the buyer shall accept part of the goods sold and actually receive the same; or give something in earnest to bind the bargain, or in part payment; or that



some note or memorandum in writing of said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto authorized." This section has usually been adopted in the United States and in Canada with certain variations as to the price of such goods.

The statute of 9 Geo. IV, c. 14, enacts "that no action shall be maintained whereby to charge any person upon any promise, made after full age, to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be by some writing signed by the party to be charged therewith." The same statute further enacts "that no action shall be maintained to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain credit, money or goods upon, unless such representation or assurance be made in writing, signed by the party to be charged therewith."

**Alabama.**—The provisions of the fourth section have been substantially reenacted. The third clause excepts mutual promises to marry. It is also provided that every contract, for the sale of lands, tenements, or hereditaments, or any interest therein, except leases for a term not longer than 1 year, unless the purchase money or a portion thereof be paid, and the purchaser be put in possession of the land by the seller is void, unless in writing signed by the party to be charged therewith. Creations of trusts, and representations as to character or credit, must also be in writing.

**Arizona.**—The provisions of the fourth section, except the first clause, and of the seventeenth section have been substantially adopted, and the latter is made to cover contracts for goods for the price of \$100 or upwards.

**Arkansas.**—The provisions of the fourth and seventeenth sections have been adopted, and the latter is made to cover contracts for goods for the price of \$30 or more. The promise to pay a debt contracted in infancy must also be in writing.

**California.**—The fourth section has been adopted except the first clause, and excepting mutual promises to marry in the third clause. The seventeenth section has also been adopted, covering goods and chattels or things in action at a price not less than \$200. Creations of trust must be in writing, and representations as to the credit of any person must be in the handwriting of the person to be charged therewith.

**Colorado.**—Except the first clause, the fourth section has been adopted excepting from the third clause mutual promises to marry.

The seventeenth section has also been adopted, covering goods and chattels for the price of \$50 or more. Contracts in these instances are required to be in writing, otherwise they are void.

**Connecticut.**—The fourth section has been adopted, as well as the seventeenth section covering personal property of \$50 value or upwards.

**Delaware.**—The fourth section has been adopted, except the first clause, and the seventeenth section covering goods for the price of \$50 or upwards. The second clause of the fourth section as here adopted provides that no action shall be brought to charge any person whereby to answer for the debt, default, or miscarriage of another in any sum of the value of \$25 or upwards, unless the agreement be in writing, signed by the party to be charged, or some memorandum thereof, signed as aforesaid, except for goods, and the like, sold and delivered, which are properly chargeable in a book account, in which case the oath of the plaintiff, together with the book of original entries, is admissible in evidence to charge the defendant. If the amount be less than \$25 and more than \$5, one credible witness or a memorandum as aforesaid is sufficient to charge the defendant; if the amount be less than \$5, it may be proved on the oath of the plaintiff alone.

**District of Columbia.**—No contract for the sale of merchandise for the price of \$50, or upwards, is valid unless the buyer accept part of the goods sold or give something to bind the bargain, or the parties execute some note or memorandum in writing.

**Florida.**—Sections four and seventeen have been adopted, the latter covering any personal property.

**Georgia.**—The fourth section has been adopted excepting from the third clause marriage articles, and from the fifth clause, contracts with overseers. The seventeenth section has also been adopted, covering goods, wares, or merchandise to the amount of \$50 or more.

**Idaho.**—The fourth section, except the first clause, and the seventeenth section, covering goods for the price of \$200 or more, have been adopted. Representations as to the credit of another person must be in the handwriting of the party to be charged therewith.

**Illinois.**—The fourth section has been substantially adopted. As to the creation or transfer of any interest in real estate, it is provided that contracts for the transfer or sale of any interest in land for a term longer than 1 year, or leases not expiring within 1 year from the date of the making thereof, and all express trusts, must be in writing, but the consideration need not be stated in writing.

**Indiana.**—The fourth section, and the seventeenth section covering goods of the value of \$50 or more, have been adopted. Nor shall



any action be brought to charge any person upon any representation made concerning the character, conduct, credit, ability, trade, or dealings of any other person, unless it be in writing signed by the party to be charged therewith.

**Iowa.**—Except when otherwise specially provided, no evidence of the following contracts is competent unless it be in writing and signed by the party to be charged or by his lawfully authorized agent. Such contracts embrace: Those in relation to the sale of personal property, when no part of the property is delivered and no part of the price is paid; those made in consideration of marriage; those wherein one person promises to answer for the debt, default, or miscarriage of another, including promises by executors to pay the debt of their principal from their own estate; those for the creation or transfer of any interest in lands, except leases for a term not exceeding 1 year; those that are not to be performed within 1 year from the making thereof. The provision of the first subdivision of the preceding section does not apply when the article of personal property sold is not at the time of the contract owned by the vendor and ready for delivery, but labor, skill, or money are necessarily to be expended in producing or procuring the same; nor do those of the fourth subdivision of said section apply where the purchase money, or any portion thereof, has been received by the vendor, or when the vendee, with the actual or implied consent of the vendor, has taken and held possession thereof under and by virtue of the contract, or when there is any other circumstance which, by the law heretofore in force, would have taken a case out of the Statute of Frauds.

**Kansas.**—The provisions of most of the sections have been adopted.

**Kentucky.**—No action shall be brought to charge any person for any representation concerning the character, credit, or trade of another, made with intent that such other may obtain credit, or upon any promise to pay a debt contracted during infancy or upon any of the promises or agreements mentioned in the fourth section, unless some memorandum thereof be in writing, signed by the party to be charged therewith.

**Louisiana.**—The Statute of Frauds is technically unknown in this state; but the second and fourth clauses of the fourth section are practically in force. Representations as to the credit or character of another must also be in writing, signed by the party to be charged therewith.

**Maine.**—The fourth section has been adopted, the second clause thereof specifying promises to answer for the debt, default, or misdoing of another. The seventeenth section has been adopted covering goods for the price of \$30 or upwards. Representations as to credit,

promises to pay a debt contracted in infancy, and promises to pay a debt after discharge therefrom in bankruptcy, must also be in writing, signed by the party to be charged therewith.

**Maryland.**—The provisions of the Statute of Frauds are substantially in force here.

**Massachusetts.**—In order to charge an administrator, executor, or assignee out of his own estate, or to charge a person with the debt, default, or misdoing of another, or upon consideration of marriage, or for the sale of real estate or any interest concerning it, or upon any agreement not to be performed within 1 year, the promise or agreement must be in writing, and signed by the party to be charged, or by his agent duly authorized. The same rule applies to the promise of an insolvent debtor to pay a debt from which he has been discharged, and to any assurance or representation concerning the character, conduct, credit, ability, trade, or dealings of another person. No contract for the sale of goods, and the like, for the price of \$50 or more is valid, unless there be part acceptance or part payment, or unless made in writing and signed as aforesaid. No agreement made after May 17, 1888, to make a will of either real or personal estate, or to give a legacy or make a devise, is binding unless in writing, signed by the party whose executor or administrator is sought to be charged, or some one by such party duly authorized.

**Michigan.**—No conveyance of lands, other than leases for not exceeding 1 year, is valid, except it be in writing and subscribed by the party, or by some one by him authorized in writing. Every agreement that by its terms is not to be performed in 1 year; every special promise to answer for the debt, default, or misdoings of another; every agreement made upon consideration of marriage, except mutual promises to marry; and every special promise by an executor or administrator to answer damages out of his own estate, is void, unless also in writing. Every sale of chattels, unless accompanied by an immediate delivery and followed by an actual and continued change of possession, is presumptively fraudulent and void as against creditors or subsequent purchasers in good faith. Contracts for the sale of goods for the price of \$50 or more are invalid, unless in writing, or unless the purchaser accept and receive part of the goods sold, or shall give something in earnest to bind the bargain or in part payment.

**Minnesota.**—The following contracts, or a memorandum thereof, must be in writing: Every agreement not to be performed in 1 year; promises to answer for the debt, default, or misdoings of another; contracts in consideration of marriage, except mutual contracts to marry; contracts for any interest in lands, except a lease for a term not exceeding 1 year; and contracts for the sale of goods for a price of



\$50 or more, unless the buyer receive a part of the goods or pay a part of the purchase money.

**Mississippi.**—The fourth section, and the seventeenth section covering goods for the price of \$50 or upwards, have been adopted. The promise to pay a debt contracted in infancy must also be in writing.

**Missouri.**—The fourth section, and the seventeenth section covering goods for the price of \$50 or upwards, have been adopted. Representations as to the character, conduct, credit, ability, trade, or dealings of another, and promises to pay a debt contracted in infancy, must be in writing, signed by the party to be charged thereby or by some person thereunto by him lawfully authorized.

**Montana.**—The fourth section has been adopted excepting mutual promises to marry from the third clause, and excepting the fourth clause. No title or interest in land, however, excepting a lease for less than 1 year, can be conveyed unless it be in writing and subscribed by the grantor or his agent. The seventeenth section has been adopted, covering goods or chattels for \$200 or more.

**Nebraska.**—No estate or interest in land, other than leases, for a term not exceeding 1 year, nor any trust or power over lands shall be created, granted, assigned, surrendered, or declared, unless by act or operation of law or by deed of conveyance in writing subscribed by the party creating, granting, assigning, surrendering, or declaring the same. The following agreements must be in writing: Agreements not to be performed within 1 year from the making thereof; every special promise to answer for the debt, default, or miscarriage of any other person; every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry; every special promise by an executor or administrator to answer damages out of his own estate; every contract for the sale of goods, chattels, or things in action for the price of \$50 or more, unless the buyer shall accept and receive a part of such goods or the evidences, or some of them, of such things in action, or unless the buyer shall at the time pay some part of the purchase money.

**Nevada.**—The fourth and the seventeenth sections, the latter covering goods for the price of \$50 or more, have been substantially adopted.

**New Hampshire.**—The fourth and the seventeenth sections have been adopted, the latter covering merchandise to the value of \$33.

**New Jersey.**—The fourth and the seventeenth sections have been substantially adopted, the latter covering goods exceeding \$30 in value. The promise to pay a debt contracted in infancy, or the promise of a bankrupt to pay a debt after being discharged therefrom, must also be in writing and signed.

**New York.**—An estate or interest in real property, other than a lease for a term not exceeding 1 year, or any trust or power over or concerning real property, or in any manner relating thereto, cannot be created, granted, assigned, surrendered, or declared, unless by act or operation of law, or by a deed of conveyance in writing, subscribed by the person creating, granting, assigning, surrendering, or declaring the same, or by his lawful agent thereunto authorized by writing. No executor or administrator shall be chargeable upon any special promise to answer damages, or to pay the debts of the testator or intestate, out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, be in writing, and signed by such executor or administrator, or by some other person by him thereunto specially authorized. In the following cases, every agreement shall be void unless such agreement or some note or memorandum thereof be in writing, and subscribed by the party to be charged therewith: Every agreement that by its terms is not to be performed within 1 year from the making thereof; every special promise to answer for the debt, default, or miscarriage of another person; every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry. Every contract for the sale of any goods, chattels, or things in action, for the price of \$50 or more, shall be void unless a note or memorandum of such contract be in writing and be subscribed by the parties to be charged thereby, or unless the buyer shall accept and receive part of such goods, or the evidences of such things in action, or unless the buyer shall, at the time, pay some part of the purchase money. Under this last provision there must be a memorandum of sales at auction made in a sale book.

**North Carolina.**—Only the first two clauses of the fourth section have been adopted. All contracts to sell or convey any lands, tenements, or hereditaments, or any interest in or concerning them, shall be void and of no effect, unless such contract or some memorandum or note thereof shall be put in writing and signed by the party to be charged therewith or by some other person by him thereto lawfully authorized. A trust may be created by parol.

**North Dakota.**—Section four, except the first clause, and section seventeen, covering personal property for the price of \$50 or more, have been adopted.

**Ohio.**—Section four has been adopted in full, besides the provisions regarding the conveyance of interests in realty and the creation of trusts.

**Oklahoma.**—The provisions of section four have been adopted.

**Oregon.**—Section four and section seventeen have been adopted, the latter covering personal property of more than \$50 in value.



Representations as to the credit of another person must be in the handwriting of the party to be charged therewith.

**Pennsylvania.**—All leases, estates, interest of freehold or term of years, or any uncertain interest of, in, or out of any messuages, manors, lands, tenements, or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents, thereunto lawfully authorized by writing, shall have the force and effect of leases at will only, except all leases not exceeding the term of 3 years from the making thereof; and all assignments, grants or surrenders of such leases, estates, and the like, must be in writing and signed as aforesaid. All declarations or creations of trusts or confidences of any lands, tenements, or hereditaments, and all grants and assignments thereof, must be manifested in writing, signed by the party holding the title thereof, or by his last will in writing, or else be void; provided that where any conveyance shall be made of any lands or tenements, by which a trust or confidence shall or may arise, or result by implication or construction of law, or be transferred or extinguished by act or operation of law, then such trust or confidence shall be of the like force and effect as if this act had not been passed. No action shall be brought whereby to charge any executor or administrator, upon any promise to answer damages out of his own estate, or whereby to charge the defendant, upon any special promise, to answer for the debt or default of another, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing and signed by the party to be charged therewith, or some other person by him authorized; but this does not apply to any contract the consideration of which is a less sum than \$20.

**Rhode Island.**—All the provisions of section four have been adopted.

**South Carolina.**—Section four, and section seventeen covering goods over \$50 in value, have been adopted. Promises to pay a debt contracted in infancy, and representations as to the character or credit of another person must be in writing.

**South Dakota.**—Section four except the first clause, and section seventeen covering personal property for the price of \$50 or more, have been adopted.

**Tennessee.**—All the provisions of section four have been adopted.

**Texas.**—All the provisions of section four have been adopted.

**Utah.**—Section four, except the first clause, and section seventeen covering chattels for the price of \$200 or more, have been adopted. Representations as to the credit of another person must be in the handwriting of the party to be charged therewith.

**Vermont.**—Sections four and seventeen have been adopted, the latter covering goods for the price of \$40 or more. Representations as to the credit of another person must be in writing and signed by the party to be charged therewith.

**Virginia.**—The fourth section has been adopted, the second clause specifying the "debt, default, or misdoing of another." Nor shall action be brought to charge any person upon a representation concerning the character, credit, conduct, ability, trade, or dealings of another to the intent or purpose that such other may obtain credit or goods, or upon a promise, made after full age, to pay a debt contracted during infancy, or a ratification after full age, of a promise or simple contract made during infancy, unless the same be in writing and signed by the party to be charged therewith.

**Washington.**—Section four excepting mutual promises to marry from the third clause, and section seventeen covering goods for the price of \$50 or more, have been adopted.

**West Virginia.**—All the provisions of the fourth section have been adopted, the second clause thereof specifying the "debt, default, or misdoing of another." Representations as to credit, and promises to pay a debt contracted in infancy, must also be in writing.

**Wisconsin.**—Conveyances and leases, unless for 1 year only or less, of any land or interest therein are void, unless in writing signed by the grantor or his agent authorized in writing; so too, of contracts for such conveyances or leases, except that the agent's authority need not be in writing. Agreements by their terms not to be performed within 1 year, surety agreements, and agreements upon consideration of marriage, except mutual promises to marry, are void unless in writing expressing the consideration and signed by the party to be charged. Contracts for the sale of chattels or choses in action for \$50 or more are void, unless either they be in writing signed by the party to be charged, or there be a partial delivery, or a partial payment.

**Wyoming.**—Section four excepting mutual promises to marry from the third clause, and section seventeen covering goods, chattels, or things in action for the price of \$50 or more, have been adopted. Representations as to the credit of another person must also be in writing.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—All the provisions of the Statute of Frauds, as well as the statute of 9 Geo. IV, are substantially in force. The seventeenth section applies to goods valued at \$50 or upwards.

**Manitoba.**—The provisions of the Statute of Frauds are in force. The seventeenth section applies to personal property of the value of \$50 or upwards.



**Nova Scotia.**—The provisions of the Statute of Frauds are in force. The seventeenth section applies to goods for the price of \$40 or upwards.

**Ontario.**—The provisions of the Statute of Frauds have been adopted. The seventeenth section applies to goods for the price of \$40 or upwards.

**Quebec.**—The provisions of the Statute of Frauds, as well as of the statute of 9 Geo. IV, have been adopted. The seventeenth section applies to goods of the price of \$32 or over.

## INHERITANCE TAXES

The policy of imposing inheritance, direct or collateral, taxes, following the lead of Pennsylvania, is gaining ground in the United States. It is believed that in the following states only, these taxes exist:

**California.**—The property which shall hereafter pass by will or by the intestate laws of this state, to any person other than the father, mother, husband, wife, lawful issue, brother, sister, the wife or widow of a son, or the husband of a daughter, or any child or children adopted as such in conformity with the laws of the state of California, and any lineal descendant of such decedent born in lawful wedlock, shall be subject to a tax of \$5 on every \$100 of the market value of such property. Estates valued at less than \$500 shall not be subject to the tax. There is an exemption also in case of the passing of property to the societies, corporations, and institutions now exempted by law from taxation.

**Colorado.**—All property passed by will or by the intestate laws is subject to the following tax: Estates descending to parents or lineal descendants, \$2 per \$100; estates descending to descendants not lineal, \$3 per \$100; estates valued at less than \$5,000, not subject to tax. In other cases, the rate is as follows: On estates valued at \$10,000 or under, \$3 per \$100; \$10,000 to \$20,000, \$4 per \$100; \$20,000 to \$50,000, \$5 per 100; exceeding \$50,000, \$6 per \$100; estates valued at less than \$100, not subject to tax. Estates for life or for a term of years passing to parents or lineal descendants are not subject to tax. The tax is due at the death of the decedent, and 6 per cent. interest is added if not paid within 6 months; if paid within 6 months, a discount of 5 per cent. is allowed.

**Connecticut.**—The property within the jurisdiction of this state, whether belonging to inhabitants of this state or not, in excess of \$10,000 in value, of any deceased person, passing by will or inheritance to parent, husband, wife, lineal descendant, or legally adopted child, is liable to a tax of  $\frac{1}{2}$  per cent., and such property so passing to collaterals, strangers in blood, or to a corporation, association, or society, is taxed 3 per cent. Transfers by grant, deed, sale, or gift to take effect on the death of the grantor are subject to like taxes. An exemption exists as to the transmission of property to any educational, benevolent, ecclesiastical, or missionary corporation, association, or object.



**Delaware.**—All property within the jurisdiction of this state, passing by will or the intestate laws to collaterals or strangers in blood is subject to a tax of 3 per cent. Estates of less than \$500 are exempt from this tax. The tax shall be paid by the executor or administrator within 13 months from the grant of letters.

**Louisiana.**—An inheritance tax of 3 per cent. on direct inheritances to ascendants and descendants, and 10 per cent. to collaterals and strangers, is levied on all property not before taxed, but no tax shall be levied where the estate, directly descending or ascending, is below \$10,000; and the tax is not levied on bequests for educational, religious, or charitable institutions. Any non-domiciliated person in this state, not a citizen of a state or territory of the United States, inheriting as a legatee or heir, must pay 10 per cent. tax upon the amount received, or the value of the property inherited in state, for the benefit of the charity hospital in New Orleans; provided, there exists no treaty of the United States with the country of the person's domicile prohibiting the same.

**Maine.**—All property within the jurisdiction of this state, and any interest therein, whether belonging to inhabitants of this state or not, which shall pass by will or by the intestate laws of this state, or by deed, grant, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or otherwise, other than to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of the daughter of a decedent, shall be liable to a tax of 4 per cent. of its value above the sum of \$500, for the use of the state. Tax is payable 30 days from the date of the decree determining the amount thereof.

**Maryland.**—All estates, real, personal, and mixed, money, public and private securities for money of every kind, passing from any person who may die seized and possessed thereof, being in this state, or any part of such estate or estates, money or securities or interest therein, transferred by deed, will, grant, bargain, gift, or sale to take effect after the death of the grantor, testator, or donor shall be subject to a tax of  $2\frac{1}{2}$  per cent. on every \$100 of the clear value of such estates. Property passing to the usual near relations is exempt. Estates valued at less than \$500 are exempt. The orphans' court determines what proportion of said tax a party entitled to a life estate or interest for a term of years shall pay.

**Massachusetts.**—A tax is imposed on collateral legacies and successions, at the rate of 5 per cent. of their value; but no bequest, devise, or distributive share of an estate, unless it exceeds in value \$500, shall be subject to the tax. The statute exempts property passing to or for charitable, educational, or religious societies or institutions, the

property of which is exempt by law from taxation. Two years are allowed for the payment of the tax.

**Michigan.**—Property passing by will or succession to collaterals or strangers in blood is subject to an inheritance tax of 5 per cent. when the value of the property transferred is \$500 or over. In case of favored relatives, personal property of the value of \$5,000 or more is taxed at 1 per cent.

**Minnesota.**—A law imposing a tax on gifts, inheritances, devises, bequests and legacies exists in this state, but the tax is uniform and graduated, as required by the constitution.

**Montana.**—All property descending by will or by the intestate laws to any blood relations or adopted children is taxed at the rate of \$1 for every \$100 worth of property received. That so received by any one not a blood relation is taxed \$5 for every \$100 worth of property. Estates under \$7,500 are not liable for such inheritance tax.

**Nebraska.**—There is a tax on gifts, legacies, and inheritances in certain cases, varying from \$1 to \$6 per \$100 of value.

**New Hampshire.**—A collateral inheritance tax law exempting direct heirs was held to violate the constitutional requirement of equality in taxation.

**New Jersey.**—Property passing by will or succession to collaterals or strangers in blood is subject to a tax at the rate of \$5 for every \$100 in value, but estates valued at less than \$500 are exempt. Exemption exists in the case of transmission to churches, hospitals, and orphan asylums. A discount of 5 per cent. is allowed if the tax be paid within 6 months; if paid within 1 year, 6 per cent. interest is charged; if not so paid, 10 per cent. interest.

**New York.**—Non-exempt persons or corporations must pay a tax of 5 per cent. upon a transfer of property, real or personal, or any interest therein or income therefrom, of the value of \$500 or over in the following cases: In the case of a transfer by will or intestacy from one dying seized or possessed, while a resident of the state; upon similar transfers of property, within the state, of a decedent who was a non-resident when he died; upon a transfer by a resident or non-resident of property within the state, made by deed, grant, bargain, sale, or gift and in contemplation of, or intended to take effect after, the death of the grantor, or donor; a person or corporation beneficially entitled, in possession or expectancy, to property or to its income, under a transfer; the exercise of a power of appointment is deemed a taxable transfer and the tax cannot be avoided by an omission to exercise such a power within the time fixed by it. Exempt persons are a father, mother, husband, wife, child, brother, sister, wife, or widow of a son or the husband of a daughter, legally adopted child, and a child to



whom the decedent, grantor, or donor, from the time prior to the child's fifteenth birthday, and for 10 continuous years after adoption and prior to the transfer, stood in mutually acknowledged relation of a parent; also, all lawful lineal descendants. Real estate is not taxable to these exempt persons, but personal property, where that of the decedent, or donor, taken as a whole, exceeds \$10,000, is taxable at 1 per cent. of its clear market value, however small may be the individual shares. Devises or bequests to the societies, corporations, and institutions now exempted by law from taxation, are exempt from this tax. A discount of 5 per cent. is allowed if paid within 6 months from accrual; if not paid within 18 months, 10 per cent. interest is charged, unless the delay be unavoidable, when it is 6 per cent.

**North Carolina.**—All personal property passing by will or by the intestate laws from one who dies possessed of the same, while a resident of this state, is subject to a tax graduated according to the degree of consanguinity of the person inheriting the property.

**Ohio.**—All the property within the jurisdiction of this state, and any interest therein, whether belonging to inhabitants of this state or not, which shall pass by will, or by deed, grant, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or otherwise, other than to and for the use of the father, mother, husband, wife, brother, sister, niece, nephew, lineal descendant, adopted child, or the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter of the decedent, shall be liable to a tax of 5 per cent. of its value above the sum of \$200, 75 per cent. of such tax to be for the use of the state, and 25 per cent. for the use of the county, wherein the same is collected. Such taxes shall become due and payable immediately upon the death of the decedent, and remain a lien on said property until paid.

**Oregon.**—A tax of 1 per cent. is imposed on the appraised value of gifts, legacies, and inheritances; provided, that any estate which may be valued at a less sum than \$10,000 shall not be subject to any such tax, and the tax is to be levied on the excess of \$5,000 received by any person. When such inheritance, legacy, gift, or other interest shall pass to an uncle, aunt, niece, nephew, or any lineal descendant of the same, the tax shall be at the rate of 2 per cent. upon the appraised value thereof received by each person on the excess of \$2,000 so received by each person. In all other cases, the tax shall be 3 per cent. on the appraised value on amounts over \$500, and not exceeding \$10,000; 4 per cent. on amounts over \$10,000, and not exceeding \$20,000; 5 per cent. on all amounts over \$20,000 and not exceeding \$50,000; and 6 per cent. on all amounts over \$50,000. Every such tax is a lien on the property embraced in any inheritance, legacy, devise, bequest, or gift until paid.

**Pennsylvania.**—All estates situated within this state, whether the persons dying seized thereof be domiciled within or out of the state, and all such estates situated in another state, territory, or country, when the persons dying seized thereof shall have their domicil within this commonwealth, passing by will or under the intestate laws of this state, or any part of such estates, or interest therein, transferred by deed, grant, bargain, or sale, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor to any persons, or to bodies corporate or politic in trust or otherwise, other than to and for the use of father, mother, husband, wife, children, and lineal descendants born in lawful wedlock, or the wife or widow of the son of the person dying seized or possessed thereof, are subject to a tax of \$5 on every \$100 of the clear value of such estate. No estate which may be valued at a less sum than \$250 is subject to this tax. Devices or bequests to executors in lieu of commission, when such devices or bequests exceed the fair compensation for said services, are subject to this tax. In case of device, descent, or bequest to collaterals to take effect after the preceding life estate in the same property, said tax is not payable until such persons come into actual possession of the said property. If said tax be paid within 3 months from the death of the decedent, a discount of 5 per cent. is allowed; if not paid within 1 year from said death, interest is charged at 12 per cent., except in case of unavoidable delay, and then only 6 per cent.

**Tennessee.**—There is a tax on property passing by will or succession to collaterals, the usual near relatives being excepted, at the rate of 5 per cent.; estates valued at less than \$250 are exempt.

**Vermont.**—Inheritance taxes do not exist in this state.

**Virginia.**—The collateral inheritance tax law of this state formed a part of the annual "perfect" tax laws, beginning in 1844. It was continued until the session of 1855-6, when it was omitted. This omission was declared to effect its repeal. The law was reenacted in 1863, and again omitted until 1867. It was repealed in 1884, and has not been revived.

**West Virginia.**—There is a tax of  $2\frac{1}{2}$  per cent. on collateral inheritances of \$1,000 and over.

**Wisconsin.**—A tax has been imposed upon gifts and inheritances graduated from 1 to 5 per cent., according to the value of the gifts and inheritances, with an increased rate when the estates exceed \$25,000 in value.



## INTEREST

When a usurious rate of interest is contracted for, all the interest is forfeited, and the principal only may be recovered without costs, in Alabama, District of Columbia, Florida, Illinois, Iowa, Louisiana, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, Virginia, Wisconsin, and Wyoming. The contract is void as to the excess only in Georgia, Indiana, Kansas, Kentucky, Maryland, New Hampshire, Ohio, Pennsylvania, Tennessee, Vermont, and West Virginia. In other states it is held that such a rate avoids the contract as to both principal and interest, as in Arkansas, Delaware, Indian Territory, Minnesota, New York, North Carolina, and Oregon. In Kansas, Nebraska, Ohio, and Virginia, all payments of interest above the rate allowed are to be considered as payments on the principal sum. In Tennessee, where any contract calls for a usurious rate of interest, it is void, but the party may sue upon the original consideration for the amount legally due. In Washington, in such a case, the plaintiff may recover only the principal less the amount of interest accruing thereon, at the rate contracted for; and, if such interest have been paid, judgment shall be for the principal less twice the amount of interest paid.

Generally, where there are usury laws, the interest which has been paid in excess of the rate allowed may be recovered back by the party so paying, as in Alabama, District of Columbia, Kentucky, Louisiana, Mississippi, New Jersey, New York, Pennsylvania, Vermont, and Virginia. In Alabama, District of Columbia, Kentucky, Louisiana, New York, and Virginia, such action must be begun within 1 year from such payment, and in Pennsylvania, within 6 months. In a few states, as Illinois and Washington, there can be no recovery of such excess voluntarily paid. In Florida, New Mexico, North Carolina, North Dakota, South Carolina, and Texas, the party paying any such excessive interest may recover twice the amount so paid, if the action be brought within 2 years, or 1 year in Florida, and 3 years in New Mexico. In New Hampshire and Wisconsin, such a party may recover three times the amount so paid, by action begun within 1 year. In Iowa, a usurious contract works a forfeiture of 10 per cent. per annum upon the principal, to the school fund of the county in which suit is brought; and in Missouri there is a similar forfeiture of 8 per cent. In Oregon, the principal and interest are forfeited absolutely, but judgment may be

entered against the defendant for the principal sum with legal interest thereon, for the benefit of the common school fund.

The following table contains the legal rate of interest and the contract rate in various jurisdictions:

Jurisdiction	Legal Rate Per Cent.	Rate Allowed by Contract Per Cent.	Jurisdiction	Legal Rate Per Cent.	Rate Allowed by Contract Per Cent.
Alabama . . . . .	8	8	New Mexico . . . . .	6	12
Arizona . . . . .	6	Any rate	New York . . . . .	6	6 <sup>2,5</sup>
Arkansas . . . . .	6	10	North Carolina . . . . .	6	6
California . . . . .	7	Any rate	North Dakota . . . . .	7	12
Colorado . . . . .	8	Any rate	Ohio . . . . .	6	8
Connecticut . . . . .	6	6 <sup>1</sup>	Oklahoma . . . . .	7	12
Delaware . . . . .	6	6	Oregon . . . . .	6	10
District of Columbia . . . . .	6	10	Pennsylvania . . . . .	6	6 <sup>6</sup>
Florida . . . . .	8	10	Rhode Island . . . . .	6	Any rate
Georgia . . . . .	7	8	South Carolina . . . . .	7	8
Idaho . . . . .	7	12	South Dakota . . . . .	7	12
Illinois . . . . .	5	7 <sup>2</sup>	Tennessee . . . . .	6	6
Indian Territory . . . . .	6	10	Texas . . . . .	6	10
Indiana . . . . .	6	8	Utah . . . . .	8	Any rate
Iowa . . . . .	6	8	Vermont . . . . .	6	6
Kansas . . . . .	6	10	Virginia . . . . .	6	6 <sup>3</sup>
Kentucky . . . . .	6	6	Washington . . . . .	6	12
Louisiana . . . . .	5	8	West Virginia . . . . .	6	6 <sup>7</sup>
Maine . . . . .	6	Any rate <sup>3</sup>	Wisconsin . . . . .	6	10
Maryland . . . . .	6	6	Wyoming . . . . .	8	12
Massachusetts . . . . .	6	Any rate <sup>4</sup>			
Michigan . . . . .	5	7	British Columbia . . . . .	5	Any rate
Minnesota . . . . .	6	10	England . . . . .	4	Any rate
Mississippi . . . . .	6	10	Manitoba . . . . .	6	Any rate <sup>5</sup>
Missouri . . . . .	6	8	New Brunswick . . . . .	5	Any rate
Montana . . . . .	8	Any rate	Nova Scotia . . . . .	6	7 or 10 <sup>9</sup>
Nebraska . . . . .	7	10	Ontario . . . . .	5	Any rate
Nevada . . . . .	7	Any rate	Quebec . . . . .	6	Any rate <sup>5</sup>
New Hampshire . . . . .	6	6	Scotland . . . . .	5	Any rate
New Jersey . . . . .	6	6			

<sup>1</sup> There are no usury laws.

<sup>2</sup> Corporations are not allowed to plead usury.

<sup>3</sup> On secured loans of less than \$200, interest not exceeding 3 per cent. a month for not more than 3 months is allowed, and thereafter not exceeding 15 per cent. per annum.

<sup>4</sup> Interest on bonds issued by a corporation is limited to not exceeding 7 per cent. per annum. The practical effect of a law passed in 1888 limits the rate on loans for less than \$1,000, contracted after May 22, 1888, to not exceeding 18 per cent. per annum.

<sup>5</sup> On demand loans for over \$5,000 secured by negotiable instruments or stock pledged as collateral, a bank or an individual banker may collect whatever rate the parties agree upon in writing.

<sup>6</sup> Railroad and canal companies may borrow money at a greater rate of interest; and commission merchants and agents may contract with parties outside of this state for 7 per cent. interest.

<sup>7</sup> Incorporated companies may borrow money at a higher rate.

<sup>8</sup> Banks are restricted to 7 per cent.

<sup>9</sup> The rate by agreement may be 7 per cent. where the security is realty, or 10 per cent. where the security is personalty.



## JUDGMENTS

**Alabama.**—Judgments become a lien on the defendant's property as soon as filed in the probate court for registration, and such lien lives for 10 years. Execution on an unregistered judgment is not a lien on personal property unless an actual levy is made. Execution from a court of record, in the hands of the sheriff, is a lien on realty. When execution has been issued on a judgment within 1 year after its rendition, and has not been returned satisfied, another execution may be issued at any time within 10 years after the test of the last, without a revival of the judgment. If execution did not issue within 1 year after rendition of judgment, it can be revived only by *scire facias*; after a lapse of 20 years it cannot be revived. No judgment can be rendered against executors or administrators until 12 months after the grant of letters. The sale of the husband's real estate on legal process does not discharge the wife's dower.

**Alaska.**—From the date of the docketing of a judgment, or the transcript thereof, such judgment is a lien upon all the real property of the defendant within the recording district or districts where the same is docketed, or which he may thereafter acquire therein, during the time an execution may issue thereon.

**Arizona.**—Judgments when entered in the abstract book of the clerk of the court are a lien on all the real estate of the defendant from date; and from one county they may be abstracted to another and become a lien therein. In the district court, judgments become dormant in 12 months if execution have not been issued; otherwise, in 5 years. Where a judgment has become dormant, it must be revived by *scire facias* or action before issuing execution.

**Arkansas.**—Judgments and decrees of the circuit, chancery, and supreme courts, and the United States courts, are liens on the lands of the defendant in the county where rendered, or in any county where a certified copy thereof is filed with the circuit clerk, for the period of 3 years. They may be revived on *scire facias* at any time, and continue for a like period, and, if the *scire facias* be issued before the lien expires, the revivor relates back to the original entry.

**California.**—From the time the judgment is docketed, it becomes a lien upon all the real property of the judgment debtor not exempt from execution in the county, owned by him at any time, or which he may afterwards acquire until the lien ceases. The lien continues for 5 years. A certified transcript of the judgment may be filed with the

recorder of any other county, where it becomes a lien in said county for 2 years from the date of filing.

**Colorado.**—Judgments rendered in this state are a lien against the debtor's real estate from the time a transcript thereof is filed in the clerk and recorder's office in the county where the real estate is situated, and will continue to be a lien thereon until the expiration of 6 years from the date of said judgment. Execution may be issued on such judgment, to enforce the same, at any time within 20 years from the entry thereof, but not afterwards, unless revived. Judgments are a lien on personal property from the time an execution is placed in the hands of the sheriff, and during the life of said execution. Judgments recovered before a justice of the peace may be made a lien upon the debtor's real estate by filing with the clerk of the district court a transcript of said judgment and having judgment entered thereon in the district court, and filing a transcript of such district court judgment in the office of the clerk and recorder of the county in which the debtor's real estate is situated.

**Connecticut.**—Judgments are liens only on property which has been attached in the action. The lien continues after judgment upon such property, if personal, 60 days, if real estate, 4 months. Any person having an unsatisfied judgment may file a certificate in the town clerk's office where the real estate is situated, describing such real estate, and thereupon a lien is acquired which may be foreclosed at any time like a mortgage. Execution may be issued on a judgment at any time during the lifetime of the parties.

**Delaware.**—Judgments of courts of records are liens on all real estate of the defendant in the county where judgment is entered, from their date for a period of 10 years, and may be extended to the other counties. The lien may be prolonged by a written agreement filed. To make a foreign judgment a lien in this state, suit must be brought thereon. Transcripts of judgments rendered before justices of the peace may be filed in the superior court, and the judgment then becomes a lien.

**District of Columbia.**—A judgment at common law and decree in equity of the district supreme court, for the payment of money, is a lien on freehold and leasehold estate, legal and equitable, from the date of rendition; also the judgment of a justice of the peace, of \$20 and more, from the date of the docketing in the clerk's office of the district supreme court, and on personal property, when execution is issued and delivered to the marshal. A judgment is enforceable for the period of 12 years only from the date when an execution might first be issued.

**Florida.**—Judgments are liens upon the debtor's real estate in the county where the same are rendered, and in any other county



in the clerk's office of which the same shall be recorded, in the first instance from the date of the rendition of the judgment, and in the second instance from the date of recording. Where an execution issues within 3 years from the date of rendition of the judgment, the lien is preserved for 12 years without revival.

**Georgia.**—All judgments constitute a general lien upon all the property of the defendant in this state, and take rank according to date. Judgments rendered at the same term of court are of equal dignity. Notes are not subject to the lien of a judgment, nor are choses in action generally. Stock in incorporated companies is liable. A judgment loses its lien on property sold to a *bona-fide* purchaser, if realty, in 4 years, and if personalty, in 2 years from the date of the purchase. Judgments become dormant, or lose their lien on all property, unless execution issue within 7 years, or in 7 years after the issuance of execution, or after the last return on the same by an authorized officer. A judgment may thus be kept alive indefinitely, simply by entries on the execution. After a judgment has become dormant, it may be revived by proper proceedings within 3 years. The clerk of the superior court of each county is required to keep a general execution docket, on which all judgments shall be entered within 10 days from their rendition, or their lien is lost on property within the county. When entered after 10 days, the lien dates from the entry. Judgments rendered outside of the county must be recorded within 30 days. As against the interest of third parties acting in good faith and without notice who may have acquired a transfer or lien binding real estate of a non-resident, the judgment must be recorded in 10 days to be a lien on the property of a non-resident.

**Idaho.**—Judgments in the district court are liens on all real property of the debtor situated within the county for 2 years. Judgments obtained in the probate and justice courts may be docketed in the district court, and thus likewise become liens upon lands owned by the debtor situated in that county. Transcripts of judgments may be filed with the recorder of any other county of the state, and thus be made liens upon any real estate the debtor owns in said county.

**Illinois.**—A judgment of a court of record is a lien on the real estate of the defendant in the county in which it is rendered, provided execution be issued within 1 year from the rendition of the judgment. If execution be not issued within 1 year the lien ceases at the end of that period, but execution may issue at any time within 7 years, and becomes a lien on such real estate from the time it is delivered to the sheriff. For the purposes of levy and sale on execution, real estate includes land, tenements, hereditaments, and all legal and equitable rights therein, estates for life, for years, and leasehold estates when the unexpired term exceeds 5 years. A judgment may be revived by

*scire facias*, or an action of debt may be brought thereon, at any time within 20 years from its rendition. Judgments of the circuit court of the United States are a lien on the real estate of the defendant throughout the state.

**Indian Territory.**—Judgments and decrees of the supreme court shall, upon the filing of the transcript thereof in the circuit court of the county in which the suit originated on which the judgment or decree is entered, be a lien on the real estate of the person against whom such judgment or decree is rendered situated in such county from the filing of such transcript. The lien continues for 3 years from the day of rendition and may be revived by writ of *scire facias*.

**Indiana.**—Judgments of the supreme, circuit, and superior courts are liens upon the real estate and chattels real of the defendant, in the county where the judgment is rendered, for the space of 10 years after the rendition thereof, and no longer, exclusive of the time during which the party may be restrained from proceeding thereon by appeal or injunction, or by the death of the defendant or by the agreement of the parties entered of record. Judgments on bonds payable to the state of Indiana bind the real estate of the debtor from the commencement of the action; and transcripts of judgments from justices of the peace and courts of record bind real estate in the county from the time of filing in the office of the clerk of the circuit court therein. Transcripts of judgments of the United States courts for Indiana may be filed in the office of the clerk of any circuit court, and thereupon such judgments become a lien on realty and chattels real as fully as if rendered in such local circuit court. Judgment notes are not in use. Confession of judgment may be made by party in open court.

**Iowa.**—Judgments in the supreme and district courts of this state are liens upon the real estate owned by the defendant at the time of such rendition, and also upon all that he may subsequently acquire, for a period of 10 years from the date of the judgment; and while a judgment is not barred until 20 years, it can be made a lien upon real estate after 10 years only by the issuance of execution and levy upon such property. When the lands lie in the county wherein the judgment was rendered, the lien shall attach from the date of such rendition; but if the lands lie in any other county the lien does not attach until an attested copy of the judgment is filed in the office of the clerk of the district court of the county in which the land lies. Judgments in the district or circuit courts of the United States, if rendered in this state, may be made liens upon the real estate owned by the defendant, and also on all he may subsequently acquire, for the period of 10 years from the date of the judgments, by filing an attested copy of the judgment in the office of the clerk of the state district court of the county in which the land lies. Judgments rendered in the superior courts of



cities, and in justices' courts of the state, may be made liens upon real estate in the county in which such court is held, when the amount of the judgment is more than \$10, by filing a duly certified transcript thereof in the office of the clerk of the district court of such county. No such judgment shall become a lien on personal property until execution has been issued thereunder and actual levy made. A judgment by confession without action may be entered by the clerk of the district court upon a proper statement being made and signed by the defendant and verified by his oath, and duly filed by said clerk.

**Kansas.**—Judgments are liens on the real estate within the county where the judgments are rendered from the first day of the term of court at which rendered; but judgments by confession, and judgments in actions commenced during the term bind lands only from the day on which they were rendered. Judgment by confession can be rendered only in open court. A transcript of a judgment of a justice of the peace may be filed and docketed in the office of the clerk of the district court of the county in which the judgment was rendered, and the judgment becomes a lien upon real estate in the same manner and to the same extent as if it had been rendered in the district court. A judgment in this state is a lien on lands of the defendant acquired subsequently to the judgment. Judgments become dormant after the lapse of 5 years without execution, and must be revived before execution or order of sale can issue.

**Kentucky.**—A judgment does not constitute a lien on property in this state until the execution thereon be placed in the officer's hands. A judgment is not barred until 15 years have elapsed without an execution thereon.

**Louisiana.**—Judgments are barred by limitation at the end of 10 years from the day of rendition; they may be revived by citation served previous to the expiration of such 10 years. When entered in the mortgage office of any parish, they operate as a judicial mortgage on all property of the debtor within the parish for 10 years, subject to renewal by reinspection.

**Maine.**—Judgments are not liens on the defendant's property, except by virtue of attachment on mesne process. They are *prima facie* good for 20 years without revival.

**Maryland.**—Judgments given by courts of record are liens upon all real and leasehold property, except leases for 5 years or less not renewable, situated within the jurisdiction of the court which gives the judgment. Judgments of justices of the peace are made liens by recording them in the office of the circuit courts of counties or the superior court of Baltimore city. Execution must be issued upon personal property in order to create a lien thereon. Judgments may be renewed by *scire facias* within 12 years.

**Massachusetts.**—Unless there be an express order of the court for the entry thereof on some other day, every judgment of the superior court is entered as of the first Monday of every month in all actions ripe for judgment. Attachments on mesne process hold the property for 30 days after final judgment. Judgments are not liens unless attachments were issued. They are good for 20 years.

**Michigan.**—Judgments do not become a lien upon the debtor's property before a levy is regularly made under execution. Judgments of courts of record are good for 10 years; of justices' courts, 6 years.

**Minnesota.**—Judgments are liens upon all real property owned by the judgment debtor in counties where they are docketed in the office of the clerk of the district court, and continue a lien on such real estate and all other real estate thereafter acquired for 10 years from the date of the judgment. Judgments have priority as liens upon real estate in the order of their docketing, and on personal property in the order of the levies of execution thereon. Judgments of the other courts must be docketed in the district courts to become liens on real estate.

**Mississippi.**—Judgments are liens on all of the defendant's property in the county, after enrolment, from the date of rendition. Abstracts of judgments may be enrolled in any county. A judgment is barred at the expiration of 7 years.

**Missouri.**—Judgments and decrees rendered by any court of record are a lien on the real estate of the defendant, situated in the county for which the court is held. The lien extends as well to the real estate acquired after the rendition thereof as to that owned when the judgment or decree was rendered. The lien commences on the day of the rendition of the judgment and continues for 3 years. The plaintiff, or his legal representatives, may at any time within 10 years sue out a *scire facias* to revive a judgment and the lien thereof. If the *scire facias* be issued after the expiration of the lien and a judgment of revival be afterwards rendered, such revival takes effect only from the rendition thereof, and does not prevail over intermediate encumbrances. If the *scire facias* be issued to revive a judgment before the expiration of the lien, and a judgment of revival be rendered, although it may be after the expiration of the lien, the lien prevails over all intermediate encumbrances. If upon the service of the *scire facias* the defendant and his creditors do not appear and show cause against reviving the judgment or decree, the same is revived, and the lien continues for another 3 years, and so on from time to time as often as may be necessary. The judgment of a justice of the peace and of the supreme court, or of the United States circuit or district courts held within this state, and of the courts of appeal, are liens upon the real



estate only from the time of filing the transcript of the judgment in the office of any circuit court, as to the real estate situated in the county in which such transcript is filed.

**Montana.**—A judgment rendered and docketed in the district court or a judgment rendered in a justice's court and docketed in the office of the clerk of the district, becomes a lien on all lands owned by the judgment debtor not exempt from execution, situated in that county. A transcript of the judgment filed in another county constitutes a lien on lands owned by the debtor in the county where such transcript is filed. The lien continues 10 years from the date of the judgment.

**Nebraska.**—Judgments in the district court are liens on lands and tenements of the debtor from the first day of the term at which rendered, except that judgments by confession and judgments rendered at the same term at which action was commenced are liens only from the date of rendition. Transcripts of judgments rendered in any district court may be filed in other counties than where rendered, and become liens on lands lying in those counties from the date of filing. Judgments of a county court or a justice of the peace become liens by filing transcripts of the same in the district court of the same county. A judgment becomes dormant if 5 years be allowed to elapse without the issuance of an execution. It may be kept alive by issuance of an execution from time to time at shorter intervals than 5 years. A dormant judgment may be revived.

**Nevada.**—Judgments become liens upon real estate, not exempt, within the county where rendered from the time they are docketed, and remain liens for 2 years. A judgment obtained before a justice of the peace may become a lien by filing and recording in the office of the county clerk.

**New Hampshire.**—Judgments are liens only on property attached in the action in which rendered, and continue so for 30 days after rendition. Judgments are good for 20 years.

**New Jersey.**—Judgments and decrees of county and state courts are a lien upon the real estate of the debtor from the time of entry and continue a lien for a period of 20 years, and may be continued indefinitely. Judgments take priority against land according to the date of levy, against chattels according to the date of delivery of execution to the sheriff. A judgment under which there is a prior levy has priority of judgments of an earlier date. Judgments of the common pleas and circuit courts are limited to the county in which they are recovered, and those of the supreme court and decrees of the court of chancery extend throughout the state. Decrees in chancery are liens upon the lands mentioned in the bill or decree from the date of filing thereof, and are liens upon other lands from the date of filing an abstract of

the decree in the office of the clerk of the supreme court. Judgments of justices' and district courts may be docketed in the courts of common pleas, and those of the circuit and common pleas courts may be docketed in the supreme court.

**New Mexico.**—Judgments of the district courts are made liens on the real estate of the debtor for a period of 7 years by filing in the office of the recorder, where such lands are situated, a certified copy of the docket of the judgment. Justices' judgments may be made a lien on real estate by filing a copy of the judgment and return of execution *nulla bona* in the office of the clerk of the district court, having the same docketed, and a transcript of the docket of the judgment filed in the recorder's office of the county where such real estate is situated.

**New York.**—Judgments are liens upon the real estate of the defendant for 10 years after the same are docketed in the office of the clerk of the county where the real estate is situated. The lien of the judgment attaches also to the realty of the defendant acquired after its rendition. Judgments are not a lien upon the personal property of the defendant until execution is delivered to the sheriff. Personal property is not barred, as against *bona-fide* purchasers and mortgagees without notice, until actual levy. Judgments may be entered upon confession as well as by action.

**North Carolina.**—Judgments of the superior court are liens upon the lands and tenements of a debtor within the county from the date of docketing the same, for the space of 10 years. If 3 years shall elapse since the date of the last execution, the judgment becomes dormant, and execution shall only issue thereon by leave of the court upon motion, with personal notice to the adverse party, and after satisfactory proof that the judgment or some part thereof remains unsatisfied. Transcripts of judgments obtained before a justice of the peace may be docketed in the superior court, and from that time the judgment shall be a judgment of the superior court in all respects. All judgments rendered at a term of the superior court bear date as of the first day of the term, and there is no priority between them in the county of their rendition. A transcript of a docketed judgment, properly certified by the clerk, may be filed in the clerk's office of any other county, when it will become a lien upon the debtor's real estate in that county from the date of docketing in such county.

**North Dakota.**—Judgments of courts of record are liens on the real estate of the defendant, except the homestead, for 10 years from the time the same are docketed.

**Ohio.**—A judgment rendered by the common pleas court is a lien upon the real estate of the defendant within the county where the judgment is entered, from the first day of the term at which it is



rendered; but judgments by confession and those rendered at the same term at which the suit is commenced are a lien from the day the judgments are rendered. All other lands and all personal property of the defendant are bound only from the time they are seized for execution. Judgments become dormant after 5 years from the date thereof if no execution be issued, or after 5 years from the date of the last execution issued thereon. Judgments may be rendered by confession in open court, or by warrant of attorney produced in court at the time of making such confession, by the attorney making the same. A transcript of judgment rendered by a justice of the peace, if the same be not appealed or stayed, may be filed with the clerk of the common pleas court of the county in which such judgment is rendered, and such judgment, if the transcript be filed in term time, shall be a lien upon defendant's real estate from the date of filing; but if filed in vacation, as against all other transcripts filed in vacation and judgments rendered at the next term, the same shall be a lien only from the first day of that term.

**Oklahoma.**—Judgments of all courts of record shall be liens on the real estate of the debtor, within the county in which the judgment is rendered, from and after the time the judgment is entered on the judgment docket. An attested copy of the journal entry of any judgment may be filed in the office of the clerk of the district court of any county, and such judgment shall be a lien on the real estate of the debtor within the county from and after the date of entering the same on the judgment docket. Judgments from a justice of the peace, from the time abstracts thereof are filed in the office of the clerk of the district court, shall be liens on the real estate of the debtor in the county in which such judgment is rendered, or in any other county in which a transcript thereof may be filed in the office of the clerk of the district court. Judgments by confession and judgments rendered at the same term in which the action was commenced shall bind such land from the day on which the judgment was rendered.

**Oregon.**—Judgments of courts of record are liens on real property for 10 years after the date of entry, but the same can be prolonged by the issuance of execution within 10 years. After the expiration of 10 years without the issuance of execution or from the time of the last issuance of execution, the judgment is conclusively presumed to have been paid. A judgment rendered in one county can be docketed in any other county in the state and become a lien on the property in that county. Judgments of the United States courts for the district of Oregon can be docketed in any county of the state, and become a lien on the real property therein.

**Pennsylvania.**—Judgments are liens against the debtor's real estate in the county where the judgments are entered, but they are

not liens on personal property. An execution is a lien, however, on all personal property of the debtor in the county as soon as it is placed in the sheriff's hands. An execution of a magistrate or justice is not a lien, however, until levy is made. All judgments entered on the same day are equal in right. The lien of a judgment upon real estate continues for 5 years only, as against other lien creditors, but it can be extended for another like period by being revived on a *scire facias*, and so on indefinitely. The judgment is *prima facie* good for 20 years without revival. After that period it is incumbent upon the plaintiff to show that it has not been paid. A judgment is not a lien upon real estate acquired after its recovery, until it is revived. A judgment of a magistrate, alderman, or justice is not a lien, but a transcript of it when filed in the court of common pleas will give a lien. Judgments in the United States court may be entered in the county court of the state and become a lien as aforesaid. Judgments entered for want of an affidavit of defence against fiduciaries, instead of being entered for want of appearance, are validated by a legislative enactment approved April 3, 1903.

**Rhode Island.**—Judgments are not liens on real estate. They are good for 20 years. They are rendered in 1 week from the return day of the writ in the district courts, and 10 days after the return day in the common pleas division of the supreme court when the case is unanswered.

**South Carolina.**—Judgments are liens on personal property only after levy, and remain liens for 4 months from such levy; but on real estate, they are a lien for 10 years from the date they are entered up. They can be revived, but are *prima facie* good for 20 years without revival. After that the plaintiff must show that they have not been paid. All judgments entered on the same day rank equally. Trial justices' judgments can be docketed in the circuit court and then become judgments of that court. A transcript of a circuit-court judgment in one county can be filed in any other county.

**South Dakota.**—The provisions are the same as those in North Dakota.

**Tennessee.**—Decrees and judgments for money, when rendered in courts of record and in the county where the defendant lives, are liens on all the lands of which he holds the legal title, anywhere in the state, which lien continues for 1 year; but if the defendant do not reside in the county where the judgment is had, it is not a lien on any of his lands until it is registered in the county where the debtor resides if he reside in the state; if not, then it is registered in the county where the land lies. Judgments of magistrates' courts are not a lien on either real or personal property, and an execution under such is a lien only from the date of its levy.



**Texas.**—Judgments are not liens on either real or personal property. When an abstract of judgment is filed, however, it is a lien upon all the defendant's real estate in the county where filed, except upon the homestead. After-acquired real estate is also subjected to the aforesaid lien. No lien is acquired upon personal property until there is an actual levy under execution. When execution is issued within 12 months after date of judgment, the latter does not become dormant, but remains alive for 10 years.

**Utah.**—Judgments of the district courts are liens against the debtor's real estate in the county from the time the judgment is taken and docketed. The lien continues for 8 years. There is no lien on personalty till seizure on execution or attachment. A transcript of the original docket of a judgment may be filed with the recorder of any county, and will become a lien upon the real estate of the debtor in that county for 5 years. An abstract of a judgment rendered by a justice of the peace may be filed and docketed in the clerk's office of the district court, and is a lien upon the real estate of the debtor in the county for 8 years. Execution may issue on a judgment at any time within 8 years after the entry thereof. Judgments can be revived by suit brought within 8 years.

**Vermont.**—Judgments do not of themselves create a lien upon any of the defendant's property not attached upon mesne process.

**Virginia.**—A judgment is a lien on all the defendant's real estate; but to be effectual against purchasers for value without notice, it must be docketed in the circuit or corporation court of the county or corporation wherein the land lies, within 20 days after its date or 15 days before the conveyance of the land to a *bona-fide* purchaser. This lien can only be enforced by a suit in equity; and where the lands subject to the lien have been aliened, the last aliened shall be first subjected. If no execution be issued within 1 year, a judgment may be revived by *scire facias*, or action, within 10 years.

**Washington.**—Judgments are a lien upon the real estate of the judgment debtor, and such as he may require, for 5 years, commencing as follows: Judgments of the superior court of the county in which real estate of the debtor is situated, from the date of entry thereof, judgments of the district or circuit court of the United States, if rendered in this state; judgments of the supreme court, judgments of the superior court of any county other than the county in which said judgment was rendered, and judgments of a justice of the peace, from the time of the filing and indexing of a certified transcript of such judgments with the county clerk of the county in which said real estate is situated.

**West Virginia.**—All judgments for money are made liens upon all the real estate of the debtor, at or after their date, or, if rendered

in the circuit court, from the first day of the term at which rendered, with no preference between those rendered at the same term; but as against purchasers of real estate, such judgment liens do not bind, unless and until recorded in the "judgment lien docket" in the county court clerk's office.

**Wisconsin.**—A judgment of a court of record, when docketed, is a lien on the debtor's real estate, except the homestead, for 10 years from its date; it outlaws 20 years from its date, unless sooner sued upon for a fresh judgment, which cannot be done without leave of court for cause shown and on notice. Transcripts of judgments of courts of record may be filed in other counties and become liens on the realty of the debtor there. A judgment of a justice's court cannot be sued on till after 5 years, and outlaws, unless docketed, in 6 years from its date; it may be docketed in the circuit court, which preserves it in force and makes it a lien on real estate till 10 years from its date. A judgment is not a lien on chattels; this can be acquired only by an execution levy.

**Wyoming.**—Judgments constitute a lien upon the real estate of the debtor, subject to execution within the county where the same is entered, from the first day of the term at which the judgment is entered; but judgments by confession and judgments rendered at the same term at which the action is commenced bind such lands only from the day on which such judgments are rendered. If execution be not sued out within 5 years from the date of the judgment, it becomes dormant, and ceases to be a lien upon the estate of the judgment debtor.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—A judgment, from the time application is made for registration of the same in the land registry office, operates as a charge on and binds all the lands of the debtor in the registry district in which such application is made. Judgments must be reregistered every 2 years.

**Manitoba.**—Judgments remain in force for 10 years without renewal. They are not a lien upon either personal or real estate of the debtor. Execution may issue at any time within 6 years, but until placed in the hands of the sheriff no lien arises. When the amount involved is \$40, a certificate of judgment may be issued and registered in the local registry office, which then binds all the debtor's land within the registration division. These certificates must be reregistered every 2 years.

**New Brunswick.**—A judgment is good for 20 years, and a memorial of the same, when registered, binds the real estate of the defendant for 5 years, and may then be renewed.



**Nova Scotia.**—A judgment binds the real estate of defendant from the time of registration thereof in the registry of deeds; and after the lapse of 1 year from the registration of such judgment, execution may issue thereon for the sale of the defendant's real estate.

**Ontario.**—Judgments stand for 20 years, and may be renewed. They do not bind either goods or lands except in cases where executions have been issued upon them and placed in the sheriff's hands.

**Quebec.**—Judgments may be enforced during 30 years; execution upon them may issue in 15 days in ordinary cases, and in 8 days in commercial cases. In case of a judgment debtor fraudulently doing away with his property, the judgment can be executed immediately. The registration of a judgment operates as a mortgage claim in favor of the plaintiff.

## LIMITATIONS, STATUTE OF

The following table contains the time within which actions must be brought, in matters pertaining to contract, in various jurisdictions:

Jurisdiction	Open Accounts and Contracts Not in Writing	Notes and Contracts in Writing	Judgments of Courts of Record	Sealed Instru- ments Wit- nessed	Real Actions
	Years	Years	Years	Years	Years
Alabama . . . . .	3	6	20	10	10
Arizona . . . . .	3	5	5	5	15 <sup>2</sup>
Arkansas . . . . .	3	5	10	5	7
California . . . . .	2	4 <sup>3</sup>	5	4	5
Colorado . . . . .	6	6	20	6	6
Connecticut . . . . .	6	6	20	17	15
Delaware . . . . .	3	6	20	20	20
District of Columbia . . . . .	3	3	12	12	
Florida . . . . .	2 <sup>7</sup>	5	20 <sup>8</sup>	20	7 <sup>8</sup>
Georgia . . . . .	4	6	7 <sup>10</sup>	20	7 <sup>8</sup>
Idaho . . . . .	4	5	6	5	5 <sup>11</sup>
Illinois . . . . .	5	10	20 <sup>12</sup>	10	20 <sup>13</sup>
Indian Territory . . . . .	3	5	10	10	
Indiana . . . . .	6	10	20	10	20 <sup>14</sup>
Iowa . . . . .	5	10	20	10	10
Kansas . . . . .	3	5	5	15	15 <sup>15</sup>
Kentucky . . . . .	5 <sup>17</sup>	15	15	15	15
Louisiana . . . . .	3 <sup>18</sup>	5	10	10	30 <sup>19</sup>
Maine . . . . .	6	6	20	20	20
Maryland . . . . .	3	3	12	12	
Massachusetts . . . . .	6	6	20	20	20 <sup>21</sup>
Michigan . . . . .	6	6	10	10	15 <sup>22</sup>
Minnesota . . . . .	6	6	10	6	15
Mississippi . . . . .	3	6	7	6	10
Missouri . . . . .	5	10	10	10	10
Montana . . . . .	5	8	10	8	10
Nebraska . . . . .	4	5	5	5	10
Nevada . . . . .	4 <sup>27</sup>	6	6	6	5 <sup>28</sup>
New Hampshire . . . . .	6	6	20	20	20
New Jersey . . . . .	6	6	20	16	20
New Mexico . . . . .	4	6	7	6	10
New York . . . . .	6	6	20	20	20
North Carolina . . . . .	3	3	10	10	20 <sup>23</sup>
North Dakota . . . . .	6	6	10	6	20
Ohio . . . . .	6	15	26 <sup>24</sup>	15	21
Oklahoma . . . . .	3	5	5 <sup>26</sup>	5	5
Oregon . . . . .	6	6	10	10	10
Pennsylvania . . . . .	6	6	20	20	21 <sup>27</sup>
Rhode Island . . . . .	6	6	20	20	20
South Carolina . . . . .	6	6	20	6	10
South Dakota . . . . .	6	6	20 <sup>28</sup>	20	20
Tennessee . . . . .	6	6	10	6	7
Texas . . . . .	2	4	10	4	10
Utah . . . . .	4	6	8	6	7
Vermont . . . . .	6	6 <sup>29</sup>	8	8	15
Virginia . . . . .	3 <sup>30</sup>	5	20 <sup>31</sup>	10	15 <sup>32</sup>
Washington . . . . .	3	6	6	6	10
West Virginia . . . . .	5	10	10	10	10
Wisconsin . . . . .	6	6	20 <sup>33</sup>	20 <sup>34</sup>	20 <sup>35</sup>
Wyoming . . . . .	8 <sup>36</sup>	5	5	5	10
British Columbia . . . . .	6	6	20	20	20
England . . . . .	6	6	12	12	12
Manitoba . . . . .	6	6	10	10	10
New Brunswick . . . . .	6	6	20	20	20
Nova Scotia . . . . .	6	6	20	20	20
Ontario . . . . .	6	6	20	20	10
Quebec . . . . .	5 <sup>37</sup>	5	20	20	20 <sup>38</sup>



The following table contains the time within which actions must be brought, in matters pertaining to tort, in various jurisdictions:

Jurisdiction	Injuries to Person	Injuries to Property	Slander	Libel	Malicious Prosecution or False Imprisonment
	Years	Years	Years	Years	Years
Alabama . . . . .	6 <sup>1</sup>	6 <sup>1</sup>	1	1	1
Arizona . . . . .	1	2	1	1	1
Arkansas . . . . .	1	3	1	3	1
California . . . . .	1 <sup>4</sup>	3	1	1	1
Colorado . . . . .	1 <sup>5</sup>	6	1	1	
Connecticut . . . . .	3 <sup>6</sup>	3	3		
Delaware . . . . .	3	3			
District of Columbia . . . . .	1	3	1	1	
Florida . . . . .	2	3	2	2	2
Georgia . . . . .	2	4	1	1	1
Idaho . . . . .	2	3	2	2	2
Illinois . . . . .	2	5	1	1	2
Indian Territory . . . . .	1	3	1	3	1
Indiana . . . . .	2	6	2	2	2
Iowa . . . . .	2	5	2	2	2
Kansas . . . . .	2 <sup>16</sup>	2	1	1	1
Kentucky . . . . .	1	5	1	1	1
Louisiana . . . . .	1	1	1	1	1
Maine . . . . .	2	6	2	2	2
Maryland . . . . .	3 <sup>20</sup>	3	1	1	3
Massachusetts . . . . .	2	6 <sup>24</sup>	2	2	
Michigan . . . . .	3 <sup>23</sup>	6 <sup>24</sup>	2	2	2
Minnesota . . . . .	2	6	2	2	2
Mississippi . . . . .	1 <sup>25</sup>	6	1	1	1
Missouri . . . . .	5 <sup>23</sup>	5	2	2	2
Montana . . . . .	1 <sup>26</sup>	5	1	1	1
Nebraska . . . . .	4 <sup>16</sup>	4	1	1	1
Nevada . . . . .	2	3	2	2	2
New Hampshire . . . . .		6			
New Jersey . . . . .	4 <sup>29</sup>	6	2	2	4
New Mexico . . . . .	2	4 <sup>30</sup>	2	2	2
New York . . . . .	6 <sup>31</sup>	6 <sup>32</sup>	2	2	2
North Carolina . . . . .	3 <sup>23</sup>	3 <sup>24</sup>	1	1	1
North Dakota . . . . .	2	6	2	2	2
Ohio . . . . .	4	4	1	1	1
Oklahoma . . . . .	2 <sup>16</sup>	2	1	1	1
Oregon . . . . .		6			
Pennsylvania . . . . .	2 <sup>38</sup>	6	1	1	2
Rhode Island . . . . .	4	4	1		
South Carolina . . . . .	2	6	2	2	2
South Dakota . . . . .	2	6	2	2	2
Tennessee . . . . .	1	3	1	1	1
Texas . . . . .	1	2	1	1	1
Utah . . . . .	1 <sup>4</sup>	3	1	1	1
Vermont . . . . .	3	3	2	2	3
Virginia . . . . .	1 <sup>42</sup>	5	1	1	1
Washington . . . . .	2 <sup>43</sup>	3	2	2	2
West Virginia . . . . .	1 <sup>42</sup>	5	1	1	1
Wisconsin . . . . .	2	6	2	2	2
British Columbia . . . . .	4	6	2		4
England . . . . .	4	6	2	6	4
New Brunswick . . . . .	6	6	2		2
Ontario . . . . .	4	4	2		4
Quebec . . . . .	1 <sup>46</sup>	3	1	1	

<sup>1</sup> One year for all actions on the case, but 2 years for negligence causing death; for replevin, 4 years.

<sup>2</sup> To recover realty against a party in peaceable and adverse possession under color of title, 3 years; against such possession where the party pays taxes and has deed recorded, 5 years, or 10 years for city or village lots; where the party in possession claims by right of possession, 2 years.

<sup>3</sup> Contracts in writing made within the state, 4 years; made out of the state, 2 years.

<sup>4</sup> Action to recover damages for death of one caused by the wrongful act or negligence of another, 2 years.

<sup>5</sup> Actions on the case, 6 years.

<sup>6</sup> Suits against municipal corporations and railway companies for negligence or death must be brought within 1 year, and notice must be given within 4 months.

<sup>7</sup> Contracts not in writing, 3 years; open accounts for goods, wares, and merchandise, 2 years; for articles charged on store account, 4 years.

<sup>8</sup> Within 20 years after his possession commenced, if the defendant have not color of title.

<sup>9</sup> Foreign judgments, 7 years.

<sup>10</sup> Foreign judgments, 5 years.

<sup>11</sup> To recover placer mining claims, 1 year.

<sup>12</sup> Foreign judgments, 10 years.

<sup>13</sup> All real actions must be brought within 20 years after the right of action accrued, subject to the following exceptions: To recover land of which any person is possessed by actual residence thereon, having a connected title deducible of record, suit must be brought before the lapse of 7 years after the commencement of such possession; actual possession in good faith under claim and color of title, and payment of all legal taxes for 7 years, confers upon the possessor title to the extent and according to the purport of the paper title; color of title in good faith to vacant lands, and payment of taxes for 7 successive years, confers title to the extent and according to the purport of the legal title; if the person entitled to bring such action be an infant, or insane, or imprisoned, or absent from the United States, in the service of the United States or of this state, the action may be brought within 2 years after such disability is removed; the right to foreclose any mortgage or trust deed is barred after the lapse of 10 years after such right accrues.

<sup>14</sup> For the recovery of real property sold on execution brought by the execution debtor, his heirs, or any person claiming under him by title acquired after the date of the judgment, within 10 years after the same; for the recovery of real property sold by executors or representatives, suit must be brought by a party to the judgment or person claiming under him, within 5 years after the sale is confirmed.

<sup>15</sup> For the recovery of real property sold on execution, brought by the execution debtor, his heirs, or any person claiming under him by the title acquired after the date of the judgment, within 5 years after the date of the recording of the deed made in pursuance of the sale. For the recovery of real property sold by executors, administrators, or guardians, upon an order of judgment of a court directing such sale, brought by the heirs or devisees of the deceased person, or the ward or his guardian, or any person claiming under any or either of them, by title acquired after the date of the judgment or order, within 5 years after the date of the recording of the deed made in pursuance of the sale. For the recovery of real property sold for taxes, within 2 years after the date of the recording of the tax deed.

<sup>16</sup> For assault and battery, 1 year.

<sup>17</sup> Bills of exchange and promissory notes, 5 years; actions upon merchants' accounts for goods sold, 2 years from the 1st of January succeeding the delivery of the articles charged.

<sup>18</sup> Innkeepers' accounts, liquor retailers' accounts, wages of laborers or sailors, or for freight, 1 year.

<sup>19</sup> Where the possessor holds in good faith, under an apparently good title, transitive of the property, his title is perfect by 10 years' possession.

<sup>20</sup> For assault, battery, and wounding, 1 year.

<sup>21</sup> For lands sold under license of probate court, and for lands fraudulently conveyed, 5 years; and 1 year after levy on execution on the lands last described.

<sup>22</sup> Where the defendant claims title under an executor's, administrator's, guardian's, or sheriff's deed under the order or process of a court, 5 years; where the defendant claims title under a tax deed, 10 years.

<sup>23</sup> For assault and battery, 2 years in Michigan; 1 year in North Carolina.

<sup>24</sup> For waste, replevin, trover, and actions on the case, 6 years; for trespass on land, 2 years.

<sup>25</sup> Actions of trespass on the case, 6 years.

<sup>26</sup> Actions to recover damages for the death of one caused by the wrongful act or neglect of another, 3 years.

<sup>27</sup> Actions upon contracts made out of the state, or cause of action accruing out of the state, 2 years.

<sup>28</sup> Actions for the recovery of mining property, 2 years.

<sup>29</sup> Actions on the case, 6 years; for negligence, 2 years; for injuries resulting in death, 1 year.

<sup>30</sup> Actions of replevin, 1 year.



<sup>31</sup> Actions for personal injuries resulting from negligence, 3 years; for assault and battery, seduction, or criminal conversation, 2 years.

<sup>32</sup> Actions against executors, receivers, or trustees of an insolvent debtor to recover a chattel, or damages for the taking and detaining or injuring of personal property by the defendant or his principal, 3 years.

<sup>33</sup> Adverse possession under known and visible boundaries with color of title for 7 years is a bar to individual rights of entry, except as to persons under disabilities.

<sup>34</sup> For injury to any incorporeal hereditament, 6 years.

<sup>35</sup> Judgments become dormant after 5 years from the date thereof, if no execution be sued out; but may be revived within 21 years thereafter by action brought.

<sup>36</sup> Foreign judgments, 1 year.

<sup>37</sup> Persons under legal disability are not barred until 30 years after the right of entry accrues. All persons are barred after 40 years from the accruing of their title.

<sup>38</sup> For injuries resulting in death, 1 year.

<sup>39</sup> Notes signed in the presence of an attesting witness are not barred until 14 years after right of action accrues.

<sup>40</sup> Retail-store accounts, 2 years.

<sup>41</sup> For the recovery of lands west of the Alleghany mountains, 10 years

<sup>42</sup> Personal actions, 5 years, unless it be a cause which dies with the person, in which case, 1 year.

<sup>43</sup> For seduction and breach of promise to marry, 3 years.

<sup>44</sup> When the cause of action accrues without the state, or on equitable cause of action, 10 years.

<sup>45</sup> Ten years after the adverse possession begins, where the occupant claims under a paper title.

<sup>46</sup> All foreign claims, judgments, or contracts, contracted or incurred before the debtor became a resident of this state, 2 years.

<sup>47</sup> Claims for wages of commercial clerks and board, 1 year; wages of other employes, 2 years.

<sup>48</sup> Claims for seduction, 2 years.

There is an almost universal exception made as to the running of the statutes of limitations where the plaintiff is an infant or a person *non compos mentis*. This exception sometimes extends to persons under other disabilities, as parties imprisoned, or beyond the seas, and, prior to the married women's property acts, women under the disability of coverture were almost universally excepted from the operation of the statute. Unless otherwise provided, the party must begin action within statutory period after the removal of the disability, but in many states, such time after the removal of the disability is limited as follows: Alabama, 3 years, but not more than 20 years in all; Arkansas, 3 years; Connecticut, 5 years for ejectment, 4 years for contract under seal, and 3 years for simple contracts; Georgia, 7 years for infants; Illinois, 2 years; Indiana, 2 years; Iowa, 1 year; Kansas, 2 years for real actions, 1 year for others; Kentucky, no disability may extend the period beyond 30 years; Maryland, 6 years for specialties; New Jersey, 5 years for real actions; New Mexico, 1 year; North Carolina, 5 years for real actions; Ohio, 10 years for real actions; South Carolina, 5 years for real actions, except as to infants; Tennessee, 3 years; Virginia, real actions may not be brought after 20 years from the accruing of the action; West Virginia, 10 years for real actions; Wisconsin, 5 years; Ontario, 5 years, but all actions must be begun within 20 years.

There are further exceptions to the running of the statute where the cause of action has been fraudulently concealed from the plaintiff by the defendant. Where the defendant is absent from the jurisdiction, it is almost universally provided that the running of the statute is thereby postponed.

Generally, a new promise, in order to take a debt or a contract out of the statute of limitations, must be in writing and signed by the party to be charged thereby or his agent thereunto authorized; but this does not alter the effect of payment of principal or interest on such debt or contract to take the same out of the statute. This is the law in Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the province of British Columbia.



## MARRIED WOMEN'S SEPARATE PROPERTY

**Alabama.**—All property of the wife held by her previous to marriage, or to which she may become entitled after marriage, is her separate property. A married woman may contract as if sole. Her husband must join in the conveyance or encumbrance of her real estate. Personal property may be disposed of by husband and wife by parol or otherwise. The wife must sue and be sued alone for all matters relating to her separate estate and contracts, and for all torts to her person or property.

**Arizona.**—All real and personal property acquired by either husband or wife before marriage, and afterwards by gift, devise, or descent, with the increase, rents, issues and profits, is separate property, and not liable for the debts of the other. All conveyances of common property should be signed by the wife.

**Arkansas.**—A married woman may hold separate property and carry on a separate business. If she fail to make a schedule of her separate personal property, the burden of proof of such separate property is on her in a contest where her husband's creditors allege such property to be his. She may convey her separate property without the husband's joinder.

**California.**—All the property owned by a married woman before marriage, and that afterwards acquired by gift, bequest, devise, or descent, is her separate property. All property acquired by either husband or wife after marriage, except in the manner above specified, is community property. Whenever any property is conveyed to a married woman by an instrument in writing, the presumption is that the title is thereby vested in her as her separate property. A married woman may become a sole trader by the judgment of the superior court of the county in which she has resided for 6 months next preceding the application. She may convey without her husband's assent, and is not liable for her husband's debts, but is liable for her own debts contracted before or after marriage.

**Colorado.**—Married women may buy, sell, and deal in personal and real property and sell and convey the same as if sole. She is given every right, including the right to vote, that is given her husband, and is subject to all liabilities arising from her contracts the same as if sole. She may make a will disposing of all her property,

both real and personal, without any restriction, except that she cannot dispose by will as against her husband of more than one-half of her estate without her husband's consent; nor is a husband allowed to dispose by will as against his wife of more than one-half of his estate without his wife's consent. It is not necessary that a husband should join with his wife in a conveyance or a mortgage of his wife's property.

**Connecticut.**—All property of a married woman is separate, as to marriages contracted since April 20, 1877. A wife may contract as fully as if sole. Both husband and wife are liable for articles purchased by either which have gone to the apparel of the wife or the support of the family, but his property shall first be applied to satisfy the joint liability. A wife may convey her realty without her husband's joinder.

**Delaware.**—The separate property of a married woman consists of all which she owned before marriage, and all acquired afterwards, except from the husband. The husband must join in the conveyance of the real estate; but, if a married woman be abandoned by her husband, she may sell or otherwise dispose of any real estate in this state as effectually as if she were sole, but satisfactory proof must be made that she has been abandoned without just cause, and a certificate to that effect must accompany the acknowledgment. The wife may prosecute and defend suits at law and in equity for the preservation and protection of her property as if she were unmarried, or may do it jointly with her husband.

**District of Columbia.**—The separate property of a married woman consists of all owned before marriage, or acquired afterwards even by direct conveyance from the husband. The wife has full power to contract (except as surety or guarantor) and convey without the husband's assent. She may carry on any business or trade by herself or jointly with others, and may sue separately.

**Florida.**—During coverture, the husband is entitled to the care, management, and profits of his wife's property; but a married woman may become a free dealer by an order of the judge of the circuit court obtained upon petition after published notice, proof of her capacity, competency, and qualifications to take charge of and manage her own estate, and publication of the order for 4 weeks. She may then contract and be contracted with, sue and be sued, and bind herself and her estate in all respects as fully as if she were unmarried. The husband must be joined with the wife in the conveyance or mortgage of the wife's property.

**Georgia.**—The wife may contract in any way as to her separate estate, except that she cannot bind it by any contract of suretyship, nor by any assumption of her husband's debt. If the wife pay the debt of her husband, or convey property in payment of his debt, she



may recover back the money or property, if the creditor had notice. She may not sell to her husband.

**Idaho.**—All property of a married woman owned by her before marriage and all property acquired after marriage by gift, bequest, devise, or descent is her separate property. Property acquired after marriage by either husband or wife, except such as is acquired by gift, bequest, devise, or descent, is community property. The husband has control and management of his wife's separate property, but may not sell or encumber the same except by the execution of an instrument in writing, signed and acknowledged by both husband and wife.

**Illinois.**—A married woman may contract as if sole, but she may not carry on a partnership business without the consent of her husband. The husband and the wife are jointly liable for the expenses of the family and the education of the children. The wife may dispose of real and personal property in the same manner that her husband can dispose of property belonging to him. Transfers of personal property between husband and wife living together must be in writing, and acknowledged and recorded the same as chattel mortgages.

**Indian Territory.**—The wife must schedule her personal property; otherwise, the burden of proof rests on her to show in what character it is held. Her separate property is not liable for any debt contracted by her, unless the contract were made with special reference to its being so liable.

**Indiana.**—A married woman may hold property of every kind, and she may also contract as if sole, except that she may not enter into any contract of suretyship, whether as indorser, guarantor, or in any other manner. The husband must join in a deed conveying her real estate, but she may make leases of real estate for terms of 3 years or less, and execute mortgages to secure purchase money, without the husband joining.

**Iowa.**—A married woman may contract, sue and be sued, manage, and dispose of her property in the same manner as her husband may. The expenses of the family and education of the children are chargeable on the property of both husband and wife.

**Kansas.**—All property owned at the time of marriage, and the rents, issues, and profits thereof, and all which may afterwards come to her by descent, devise, or bequest, or the gift of any person except her husband, shall be the wife's separate property; also, the earnings of the wife from her trade or labor. The wife may sue and be sued as if unmarried, and may bargain, sell, and convey her property, and enter into any contract with reference to it, in the same manner, to the same extent, and with like effect as a married man may in relation to his real and personal property.

**Kentucky.**—A married woman holds her property as her separate estate and has full power to contract, except that she may not bind herself to answer for the debt, default, or misdoing of another, except as to property set apart for that purpose by mortgage, in which her husband must join. The husband must join in the conveyance of the wife's real estate.

**Louisiana.**—The wife's separate property may consist of property inherited or donated to her, or purchased with her separate funds, or amounts recovered in actions for damages. The wife can never obligate herself for her husband, nor contract without his authorization or that of the court. The revenues of all separate property are administered by the husband, unless otherwise stipulated by the marriage contract. She may not sue without the concurrence of her husband, or the authorization of the court.

**Maine.**—A married woman holds property, whether acquired before or after marriage, as her separate estate, and may dispose of it without joinder of her husband; and she may transact business, sue and be sued as if sole. Real estate directly conveyed to the wife by the husband requires his joinder in conveyance. A wife may not sue her husband during coverture.

**Maryland.**—All property of a married woman is separate; but if the property pass to the wife from the husband after marriage, the transfer must not be in prejudice of the rights of creditors, who must, however, assert their claims within 3 years after the acquisition of the property by the wife. A married woman may engage in any business, and contract in any manner whatsoever. If she be under 18 years, her husband must unite with her in the disposition of her property. The husband must also join in a conveyance of her real estate to bar his estate therein.

**Massachusetts.**—A married woman generally may contract as if sole, except with her husband. When doing business on her separate account, there must be filed in the clerk's office of the city or town where she does such business, a certificate setting forth her and her husband's names, the nature of the business, and the place, giving street and number, if practicable, where it is done, and the name under which she proposes to carry on the business. When the place or nature of the business is changed, a new certificate must be filed. If such certificates be not recorded, the property in such business is liable to be attached as the property of the husband, and the husband is liable upon contracts lawfully made in prosecuting the business. The husband's curtesy in his wife's real estate is released only by his consent in writing. Husband and wife shall not transfer property to each other, but the wife may, by gift from husband, acquire wearing



apparel, articles of personal ornament, and articles necessary for her personal use, of not more than \$2,000 in value; but a gift from her husband in fraud of creditors is not valid. She may sue and be sued, but not against or by her husband.

**Michigan.**—All property of a married woman is separate, but her earnings, as a general rule, belong to the husband. She may, however, with his consent, carry on a business in her own name, in which case he has no control over the business or the profits. She may contract as sole, except that she may not become liable as surety or indorser on the debt of her husband or a third person, but she may mortgage her property to secure such a debt. The wife's conveyance of real estate does not require the husband's joining in it.

**Minnesota.**—All property of a married woman owned by her before marriage is her separate estate, and she may acquire and use property as if she were sole. Husband and wife cannot contract with each other regarding real estate. When they are living together they are jointly and severally liable for necessities furnished to or used in the family. No conveyance or contract by a married woman for the sale of real estate, or any interest therein, other than purchase-money mortgages, and leases for a term not exceeding 3 years, is valid unless her husband join.

**Mississippi.**—All the common-law disabilities of coverture have been abolished. Husband and wife may contract with each other, but all business done with the property of the wife by the husband shall be deemed and held to be on her account and for her use, and by him as her agent, as to persons dealing with him without notice, unless the contract between the husband and wife be in writing, duly acknowledged and recorded. The husband's joinder in the conveyance of the wife's realty is not necessary, except for the homestead.

**Missouri.**—A married woman is virtually a *feme sole* in the management of her separate estate. Her personal property can only be reduced to possession by her husband with her assent in writing. Her separate estate is, however, liable for debts created by the husband for necessities for her or her family. The husband must join in a conveyance of the wife's realty.

**Montana.**—An inventory of a married woman's property duly acknowledged and filed in the office of the clerk and recorder of the county in which she resides is *prima facie* evidence of her title. She may make any contract whatever with reference to her separate property, and, upon an application made to the court, may procure an order permitting her to become a sole trader. Upon procuring such order she may carry on business in her own name. The husband's joinder in conveyance of the wife's realty is not necessary.

**Nebraska.**—Married women have full power to contract and dispose of property as if single; but they are not liable as surety, unless the obligation be signed with special reference to the separate estate.

**Nevada.**—The property owned by the wife before her marriage, as well as that acquired by gift, devise, or descent afterwards, is her separate property. Any married woman may, by application to the district court of the county in which she has resided 4 successive weeks immediately preceding said application, be permitted to carry on business in her own name and on her own account. She may convey or encumber her separate property without the consent of her husband.

**New Hampshire.**—All property of the wife, including her earnings, is her separate estate. A married woman may contract, and sue and be sued, as if sole, except that she may not bind her estate by contract of surety or guaranty for her husband.

**New Jersey.**—A married woman holds all kinds of property, and may contract as if unmarried, except that she may not become surety, guarantor, or accommodation indorser, or be liable for the debt or default of another. The husband must join in a conveyance or an encumbrance of the wife's realty.

**New Mexico.**—The separate estate of a married woman consists of the property acquired before marriage, or afterwards acquired by inheritance, donation, or legacy. Property acquired by either husband or wife otherwise than as stated above is community property, and upon the death of either, the separate estate of the survivor belongs to him or her absolutely. A wife may contract as if unmarried.

**New York.**—The wife has the fullest power to contract, to control, and dispose of her property without her husband's consent, to the same extent and in the same manner as if unmarried.

**North Carolina.**—A married woman may hold property free from the debts, obligations, or engagements of her husband, but she may make no contract to affect her real and personal property, except for necessary personal expenses, or for the support of the family, or to pay antenuptial debts, without the written consent of her husband, unless she be a *free trader*. Every married woman of the age of 21 years and upwards, with the consent of her husband, may become a free trader, either by antenuptial contract, proved and registered, or by her signing with the husband a writing in the form prescribed by statute, or some equivalent form, signifying her intention, with his consent, of becoming a free trader. From the time of the registration of such instrument she becomes a free trader. The written consent of the husband is necessary for the conveyance of the wife's property except as aforesaid.



**North Dakota.**—Married women may contract, control, and dispose of their property in as full a manner as if sole.

**Ohio.**—A married woman has full power of control and disposition of her separate property, and may enter into any valid contract whatsoever. She may convey her realty without the joinder of her husband, but if her husband do not join, he is not barred of his estate therein.

**Oklahoma.**—Married women have all the property rights of unmarried ones. They may contract by themselves and sue and be sued as unmarried women; but they must be joined by the husband in the conveyance, mortgage, or contract, other than lease for 1 year, of the homestead, but not as to other property.

**Oregon.**—Excepting the right to vote or hold office (other than school director), a married woman has the same civil rights and privileges which are enjoyed by her husband. Expenses of maintaining and educating the family are chargeable to husband and wife, jointly or separately.

**Pennsylvania.**—A married woman may retain all her property, whether acquired before or after marriage, as her separate estate, and may contract as fully as if unmarried, except that she may not become accommodation indorser, guarantor, or surety for another, nor mortgage nor convey her real estate, unless the husband join in such mortgage or conveyance. She may sue and be sued with the same effect as an unmarried person, but she may not sue her husband except in a proceeding for divorce or in a proceeding to protect or recover her separate property whensoever he may have deserted or separated himself from her without sufficient cause, or may have neglected or refused to support her; nor may he sue her except in a proceeding for divorce or in a proceeding to protect or recover his separate property whensoever she may have deserted him or separated herself from him without sufficient cause.

**Rhode Island.**—A married woman's property is not liable for her husband's debts. She may contract the same as if single, and with the same rights and liabilities. Her property is liable to attachment for her own debts and liabilities. She may mortgage her real estate, the husband joining in the mortgage to convey his interest as tenant by the curtesy.

**South Carolina.**—A married woman has all the rights and privileges as to the control and disposition of her property, entering into contracts, and the like, to which an unmarried woman, or a man, is entitled. All property held by her before marriage or afterwards acquired is her separate estate.

**South Dakota.**—A married woman may hold her property as her separate estate, and may convey it without the consent of the husband. She may sue and be sued as if unmarried. Either husband or wife may enter into any transaction with the other, or with any other person, respecting property, subject, in transmission between themselves, to the general rules which control the actions of persons occupying confidential relations with each other; and husband and wife may hold real or personal property together as joint tenants or tenants in common.

**Tennessee.**—The wife may have a separate estate, consisting of real or personal property, coming to her by gift, devise, or inheritance, and this is not subject to her husband's debt. All the personalty of the wife reduced to husband's possession becomes his property. The general contracts of a married woman are void, but she may bind her separate property by contracting with reference to it only in the manner designated in the instrument under which she received it. Rents of the wife's separate real estate are exempt from her husband's debts. The husband must join in all her conveyances of real estate.

**Texas.**—The property which the wife brings into the marriage, or acquires afterwards by gift, devise, or descent, shall be her separate estate, which is not liable for her contracts, except for expenses incurred for its benefit, or for necessities for herself and children. She may not contract as a partner in business nor embark her separate property in trade. During the marriage, the husband has the sole management of his wife's separate property. The husband must join in the conveyance of the wife's realty.

**Utah.**—A husband acquires no interest in nor control of his wife's property. She may dispose of her property and enter into any valid contract as if unmarried.

**Vermont.**—All the wife's property is her separate estate except that received by gift from her husband. A married woman may, upon petition to and license from the court of chancery, convey her real estate without her husband joining in the deed. If she carry on a business in her own name, she may sue and be sued.

**Virginia.**—A married woman has power to control and dispose of her separate estate as if unmarried. She may engage in trade (but not as a partner with her husband) for her separate use and benefit, and may contract, and sue and be sued, in respect to such trade as if unmarried. The husband should join in conveyances of the wife's real estate.

**Washington.**—All property acquired before marriage, and that acquired afterwards by gift, devise, or descent, and the rents, issues, and profits thereof, are the wife's separate property. The wife may



manage, control, devise, encumber, and convey her separate property as if unmarried. When a married woman is a party to an action, her husband must be joined with her, except when the action concerns her separate property, or her right or claim to the homestead property, or when the action is between herself and her husband, or when she is living separate and apart from her husband; in all of which instances she may sue alone. If the husband and the wife be sued together, she may defend her own right, and, if he neglect to defend, she may defend for his right also.

**West Virginia.**—All property of the wife is separate except that received by or through her husband. She may make any contract with reference to her separate estate. When living apart from her husband, she may, in her own name, carry on business, and the stock and the property used in such trade, and the profits and the earnings thereof, are her sole property. Unless living apart from her husband, she may not sell nor convey her real estate, unless her husband join in the deed or other writing. She may sue and be sued without joining her husband, where the suit concerns her own estate, where the suit is between herself and her husband, or where she lives apart from her husband.

**Wisconsin.**—A married woman may hold her property as her separate estate and may contract generally as other adults, and may engage in business. She is not liable on surety contracts for another without the use of words expressly to charge her separate estate with the payment of the debt. A conveyance by the wife does not require the husband's joinder.

**Wyoming.**—Married women have the same rights to hold property and contract generally as other adults. She has all the rights of an elector and may hold office and vote as other electors. She may not, however, be appointed administrator.

#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—A married woman may buy and sell real and personal property, sue and be sued, as if sole, and may carry on any business separate from her husband.

**Manitoba.**—Married women retain all property owned by them at the date of the marriage, or subsequently acquired for their own separate use, free from the debts or the control of their husbands. They are not entitled to their earnings during coverture unless a protection order be obtained from the court. A married woman may contract generally as if sole. Her separate estate is not liable for the necessities of the family unless specially charged to her. She may convey or mortgage her real estate without the concurrence of her husband.

**New Brunswick.**—A married woman may deal with her separate property, and may sue and be sued, or make contracts, as if unmarried.

**Nova Scotia.**—By the act of 1898 a married woman may hold separate estate and do business in her own name as if unmarried.

**Ontario.**—A married woman may contract as if sole, and may control and dispose of her separate property; except that the husband must join in the conveyance of the real estate, unless the court order otherwise in case the husband be a lunatic or living apart from her.

**Quebec.**—On marriage, the parties may depart from the general laws of the province governing their property, as regards rights created by entering into the marriage contract, but they may not do so after marriage. If no marriage contract were entered into, the law of the country which at the time was the domicile of the husband governs. Otherwise, the separate property of the wife consists only of the immovables belonging to her before marriage, or acquired afterwards by succession or other equivalent title. A woman who is separated as to property from her husband may be sued for debts contracted by her, but the husband should also be summoned in the cause. She may become a public trader with the authorization of the husband, and bind her separate property, as well as the community property, for the debts thus incurred.



### MECHANICS' LIENS

**Alabama.**—Mechanics, individuals, or corporations are entitled to liens for work performed or material furnished under any contract with the owner or proprietor, or his agent. The original contractor, when required, shall furnish a complete list of the laborers and other employees, and any contractor who then does not furnish such list shall forfeit his right to such lien. In case of the employees of the contractor and persons furnishing material to him, the lien shall extend only to the amount of any unpaid balance due the contractor by the owner or proprietor; but there must be a notice to the owner or proprietor, in writing, as to the materials and prices, and, if the owner do not object thereto, the material man shall have a lien whether the amount exceed such unpaid balance or not. The lien must be filed by the contractor within 6 months, and by every day laborer within 30 days, and by every other person within 4 months, after the indebtedness has accrued, after giving 10 days' notice to the owner or proprietor, or his agent, before filing such lien. All actions for the enforcement of the lien shall be brought within 6 months after filing the same.

**Arizona.**—All persons who may labor or furnish materials in the construction or repairing of any building, superstructure, canal, dam, mine, or other improvement, shall have a lien thereon. Within 90 days after the completion of such labor or the furnishing of materials, the contract must be filed in the office of the county recorder where the property is situated. If the contract be verbal, a duplicate copy of the bill of particulars should be made under oath, one delivered to the recorder and filed for record, and the other furnished the party owing the debt. Suit to foreclose such liens must be commenced within 6 months after filing the same.

**Arkansas.**—To secure a mechanic's lien, an account allowing all just credits must be filed by the claimant with the clerk of the circuit court of the county in which the building or other improvements are situated, within 90 days after all things shall have been furnished. The account must be sworn to.

**California.**—The parties entitled to a lien are mechanics, material men, artisans, architects, and laborers performing labor upon or furnishing material to be used in the construction, alteration, or repair of any building, wharf, bridge, flume, railroad, or other structure. The liens rank and must be satisfied in the following order: Laborers, material men, subcontractors, contractors. Whenever the contract

price exceeds \$1,000, the contract must be in writing, subscribed by the parties, and filed in the office of the county recorder before work is commenced; otherwise, the property of the owner is liable to a lien for all value of the labor done and materials furnished. If so filed, between the owner and his contractor, the property is liable to liens only to the amount owing by the owner to the contractor under the terms of the contract. The claimant must file with the recorder a claim setting forth the amount and nature of his lien—original contractors within 60 days, and any other person within 30 days, after the completion of the building, structure, and the like. The lien dates from the commencement of the improvement or labor, or the date of the commencement to furnish materials. Suits must be brought in the superior court within 90 days after filing the claim.

**Colorado.**—Liens have priority in the following order: Laborers or mechanics working by the day or piece, but without furnishing material therefor; all other subcontractors and all material men; the original contractor. All contracts, when the amount to be paid thereunder exceeds \$500, shall be subscribed by the parties thereto, and shall, before work is commenced under said contract, be filed for record in the office of the county recorder of the county where the property is situated. No part of the contract price shall, by the terms of any such contract, be made payable, nor shall any part thereof be paid, in advance of the commencement of the work. But the contract price shall, by the terms of the contract, be made payable in instalments or upon the estimates at specified times after the commencement of the work, or on the completion of the whole work. At least 15 per cent. of the whole contract price shall be made payable at least 35 days after the final completion of the contract. No payment made prior to the time when the same is due by the terms of the contract shall be made valid for the purpose of defeating any lien in favor of any person except the contractor. As to all liens, except that of the contractor, the whole contract price shall be payable in money. Every original contractor must, within 60 days after the completion of his contract, and every person other than the original contractor must, within 30 days after the completion of such improvements, file for record in the office of the county clerk and recorder of the county in which said property is situated a claim containing a statement of his demands, verified by his oath; and written notice of the intention to file such statement of lien must be given to the owner, his agent, or architect, at least 24 hours before the same is filed. All liens relate back to the time of the commencement of the work under the contract between the owner and the contractor. No lien shall hold the property longer than 6 months after the completion of the improvements, unless an action be begun within that time to enforce the same.



**Connecticut.**—Every building in the construction or repair of which any person shall have a claim for material or services exceeding \$10, by virtue of an agreement with, or consent of, the owner of the land or some one having authority, is, together with the land on which it stands and the appurtenances, subject to a lien therefor. No such lien will be valid unless, within 60 days after the claimant ceases to render such services or to furnish material, he lodge with the town clerk of the town a certificate of such lien, subscribed and sworn to, for record. And no person other than the original contractor, or one whose contract with the original contractor is in writing or is assented to in writing by the other party, will be entitled to claim such lien, unless, within 60 days from the time when he commenced to render services or to furnish material, he shall have given written notice to the owner that he has so commenced and intends to claim a lien, such notice to be served by a disinterested person, and a copy, with the return of service, to be recorded in the town clerk's office of the town where the land lies. Such liens may not exceed the contract price. Liens expire 2 years after filing. They may be foreclosed as mortgages.

**Delaware.**—Those entitled to a lien include all persons performing or furnishing work, labor, or material to an amount exceeding \$25 for the erection, alteration, or repair of any house or structure. If the claimant have not furnished both labor and materials, he must file in the office of the prothonotary of the superior court in and for the county where such building or structure is located, a statement of his claim within 90 days after the work is done or the materials are furnished, if he have furnished both labor and materials within 120 days. An amendment to the foregoing law provides that any person performing work and labor as aforesaid to the amount of \$100 or less may obtain a lien by filing his claim after 20 days from the time the last work was done by him, and before the expiration of 30 days thereafter, before any justice of the peace; and upon obtaining judgment, it may be made a lien upon real estate by taking a transcript thereof and filing the same in the prothonotary's office of the county. The proceedings to recover any such claim shall be by a writ of *scire facias*. The benefit of this act shall also extend to work or materials performed or furnished in the construction, furnishing, or repairing of any ship or vessel within the state, provided the bill of particulars and affidavit be filed within 4 days after the work has been done or the ship is ready for sea.

**District of Columbia.**—Liens may be enforced for a sum not greater than the original contract. Within 3 months after the completion of the building, there must be filed in the office of the clerk of the supreme court of the district, a notice of an intention to hold a lien for the amount due or to become due. Liens may be enforced in equity by suit brought within 1 year after notice is filed.

**Florida.**—Mechanics and material men may have a lien upon any building, mill, distillery, manufactory, or machinery they have constructed or repaired, or furnished material for, and also on the interest of the owner in the land on which such building stands. Notice of an intention to hold a lien must be filed in the office of the clerk of the circuit court for the county within 90 days. Suit may be brought to enforce this lien within 12 months from the completion of the work or furnishing materials, or after record of notice; otherwise, the lien is gone.

**Georgia.**—Liens of mechanics, contractors, material men, machinists, and manufacturers of machinery attach to the property to an amount not exceeding any balance that may be due by the owner on the contract, upon written notice given to the true owner within 30 days after the completion of the work or the furnishing of the material.

**Idaho.**—Every person performing labor upon, or furnishing material to be used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, or other structure is entitled to a lien for the labor and material furnished. If the claimant be a subcontractor, he must file his notice of lien in the office of the recorder of the county where the property is situated within 30 days after the completion of the contract; or, if he be an original contractor, within 60 days. Suits for foreclosure of the lien must be brought within 90 days after filing notice of lien.

**Illinois.**—Mechanics, material men, architects, or superintendents have a lien for work done and materials furnished in building, altering, repairing, or ornamenting any building. Within 10 days after the contract is made, and before commencing work, the contractor must give the owner, and the owner shall demand, a statement in writing under oath, of the names of all subcontractors and material men, and a statement of the amount of their contract; but this does not apply where a bond is given by the contractor for the completion of the work. Subcontractors are required, on request, to furnish the owner or contractor a statement, under oath, of the persons furnishing him material, and in order to maintain his lien must serve a notice upon the owner, or his agent, of his claim at any time after making his contract with the contractor, and within 60 days after the completion thereof. This notice is not required where the statement required of the contractor shows the claim of the subcontractor. A claim for laborers' pay, to the extent of 2 weeks' wages, is a preferred lien for 20 days from the last day's work performed, to an amount equal to 10 per cent. of the proportionate value of the contract completed up to the date of said last day's work, provided notice be served within 20 days from the date when such last day's work was performed, and the owner may retain for 20 days such 10 per cent. The contractor



must file, within 30 days after the date of the contract, a statement under oath in the office of the clerk of the circuit court, giving the name of the owner of the property, name of the contractor, what his contract is for, the amount to be paid, the description of the property, and when the work is to be completed. Commencement of work and delivery of material are equivalent to filing notice. The original contractor shall either bring a suit and enforce his lien, or file with the clerk a claim under oath containing a statement of the contract, when the work was completed, the balance due, and a description of the property. The lien attaches as of the date of the contract, provided the foregoing statement be filed within 30 days thereafter; otherwise, from the date the same is filed. Work done under a verbal contract must be finished within 1 year from the date thereof, and under a written contract, within 3 years. Liens must be enforced within 4 months against other creditors and purchasers. If the balance be not paid when due, the contractor may enforce his lien by chancery proceedings.

**Indiana.**—Those entitled to a lien are contractors, subcontractors, mechanics, journeymen, laborers, and all persons performing labor or furnishing material or machinery for erecting, laboring, repairing, or removing any house, mill, manufactory, or other building, bridge reservoir, system of waterworks, or other structure. So far as real estate is concerned, the lien takes precedence of all subsequent liens, and as against prior mortgagees or lessees of the property, it may be enforced upon the improvements by an order directing the sale of the same and their removal from the realty. Mechanics' liens can be taken by filing a notice of the intention to hold a lien upon the real estate and improvements of the debtor, the notice to describe the real estate, and to be filed in the office of the recorder of the county where the real estate is situated within 60 days from the rendition of the last service or the furnishing of the last materials used in the improvement. Preliminary notice or warning at the time the work is done or the material furnished is not required. It must be shown that the materials for which a lien is claimed were purchased for use in the building, and were used in the construction of it. The lien is barred unless action be brought within 1 year from the date of its record.

**Iowa.**—Every mechanic or other person who shall do any labor upon or furnish any material, machinery, or fixtures for any building, erection, or other improvement upon the land, including those engaged in the construction or repair of any work of internal improvement, by virtue of any contract with the owner, his agent, trustee, contractor, or subcontractor, shall have for his labor done or the materials, machinery, or fixtures furnished, a lien upon such building, erection, or improvement, and upon the land belonging to such owner on which the same is situated, to secure the payment of the amount due him. Such lien is perfected by the principal contractor by filing with the

clerk of the district court of said county within 90 days (and by the subcontractor within 30 days, and where the lien is claimed upon a railway, within 60 days from the last day in the month in which said labor was done or material furnished) from the date on which the last of the material shall have been furnished, or the last of the labor was performed, a just and true statement or account of the demand due him after allowing all credits, setting forth the time when such material was furnished or labor performed, and when completed, and containing a correct description of the property to be charged with the lien. Such liens shall take priority in the order of the filing of such statements, and they shall also take priority to all garnishments upon the person of the owner for the contract debt made prior or subsequent to the commencement of the furnishing of the material or performance of the labor, without regard to the date of filing the claim for mechanics' lien.

**Kansas.**—Any person who shall, under contract with the owner of any tract or piece of land, or with the trustee, agent, husband, or wife of such owner, furnish material for the erection, alteration, or repair of any building, improvement, or structure thereon; or who shall furnish or perform labor in putting up any fixtures or machinery in, or attachment to, any such building, structure, or improvement; or who shall plant any trees, vines, plants, or hedge in or upon said land; or who shall build, alter, or repair, or furnish labor or material for building, altering, or repairing any fence or footwalk in or upon said land, or any sidewalk in any street abutting said land, shall have a lien for the amount due him for such labor, material, fixtures, or machinery. Artisans, day laborers, or subcontractors are also entitled to liens for labor performed or material furnished. The lien attaches to the building and appurtenances and the whole of the said piece or tract of land. Persons claiming the lien shall file in the office of the clerk of the district court of the county in which the land is situated a statement setting forth the amount and the items thereof as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a description of the property subject to lien, verified by affidavit. If a promissory note bearing a lawful rate of interest have been taken for such labor or material, it will be sufficient to file a copy of such note, with an affidavit that such note was so taken.

**Kentucky.**—A person who labors or furnishes material for erecting, altering, or repairing a house, building, or other structure, or for any fixture or machinery therein or for excavations of cellars, vaults, and the like, or for the improvement in any manner of real estate, by contract or by written consent with the owner, contractor, subcontractor, architect, or authorized agent, has a lien upon said improvements and on the land on which they have been placed or any interest the said owner has in the same to secure the amount thereof with costs.



To hold the lien, the claimant must, within 6 months after he ceases to labor or furnish material, file in the office of the clerk of the county court his affidavit as prescribed by law, setting up the amount of the lien account. Suit must be brought on the lien within 12 months after filing the affidavit.

**Louisiana.**—Every mechanic, workman, or other person doing or performing any work toward the erection, construction, or finishing of any building, erected under a contract between the owner and the builder, or other person, whether such work shall be performed as journeyman, laborer, cartman, subcontractor, or otherwise, and whose demands for labor and work done and performed toward the erection of such building have not been paid and satisfied, may deliver to the owner of such building an attested account of the amount and value of the work and labor thus performed and remaining thus unpaid, and thereupon such owner shall retain, out of his subsequent payments to the contractor, the amount of such work and labor for the benefit of the person so performing the same. The owner is prohibited from anticipating payments on a contract to the injury of the mechanics. Unless the owner obtain a bond from his contractor, he is individually liable for all debts of the contractor on the building.

**Maine.**—Claims for labor and materials take precedence of all other liens attaching upon a building or ground after the commencement of the building. They are enforced by bill in equity or attachment at law. The right to lien is not affected by the amount. Action must be brought within 90 days.

**Maryland.**—All buildings erected or improved to the extent of one-fourth of their value, all machines erected in the state, and all boats and vessels built, equipped, or repaired are subject to mechanics' liens, in Baltimore city, for work done only; in the rest of the state, for work done or materials furnished. Liens must be filed within 6 months after the last work done or materials furnished. Subcontractors must give notice to the owner. The lien expires in 5 years. It is enforced by a bill in equity.

**Massachusetts.**—A lien arises for labor performed or material furnished in the erection or repair of any structure by virtue of an agreement with or the consent of the owner or of any person having authority from or acting for such owner. No lien attaches for materials where the owner of the property is not the purchaser, unless the person furnishing the same, before so doing, notify the said owner in writing that he intends to claim such lien. To render such lien effective, a sworn statement of the claim with a description of the property sought to be held must be filed in the registry of deeds within 30 days from the time of ceasing to labor or furnish materials. Suits must be commenced within 90 days from filing the claim.

**Michigan.**—Every person who, under a contract with the owner, part owner, or lessee of any interest in real estate, or under a contract with any contractor or subcontractor, performs any labor or furnishes any materials in or for the building, altering, repairing, or ornamenting of any building, machinery, wharf, wells, cisterns, or other structure, shall have a lien therefor. The contract for improvements upon any homestead must be in writing and signed by the wife. The lien attaches to such building, or other structure, and its appurtenances, and also upon the interest of such owner, part owner, or lessee, in the land, not exceeding one-quarter section, or, if in a city or village, not exceeding the lot or lots upon which the improvements are made at the time the labor or materials were commenced to be furnished. Proceedings to enforce the lien must be made within 60 days after completing the labor or furnishing the last of the material. The lien is treated as a mortgage, and enforced through a court of chancery.

**Minnesota.**—Whoever performs labor or furnishes skill, material, or machinery for the construction, alteration, or repair of any boat, house, or other building, or any fixtures, bridge, wharf, or other structure, or for grading, filling, or excavating any land, or constructing, altering, or repairing any sidewalk, curb, gutter, sewer, water pipe, or gas pipe, by virtue of a contract with the owner or his agent, trustee, contractor, or subcontractor, has a lien to secure the contract price or the value thereof; and whoever performs labor or furnishes skill, material, or machinery for the construction, alteration, or repair of any line of railway, telegraph, depot, bridge, telephone, electric light, gas pipe, or subway conduit, by virtue of a contract with the owner thereof, his agent, trustee, contractor, or subcontractor, has a lien on the same to secure the contract price or the value thereof. The lien attaches to such building, or other structure, and upon the right, title, and interest of the owner thereof to the land upon which the same is situated, not exceeding 40 acres if without the corporate limits of any city or incorporated village, and if within such corporate limits of a city or village, then not exceeding 1 acre. The claimant must, within 90 days from the time of furnishing the last item of such labor, skill, material, or machinery, file a statement verified by the oath of the party claiming the lien or by his agent or by one having knowledge of the facts, setting forth the amount due, the time when the contract was completed, a description of the property, the name of the owner, and a notice of intention to claim and hold such lien. This statement must be filed in the office of the register of deeds in and for the county in which the premises charged with the lien are situated, and in case of any boat or vessel, line of railway, telegraph, depot, bridge, fence, or other structure appertaining to any line of railway, telegraph, or telephone, such statement must be also filed within said time in the office of the secretary of state. The filing and recording of such a



To hold the lien, the claimant must, within 6 months after he ceases to labor or furnish material, file in the office of the clerk of the county court his affidavit as prescribed by law, setting up the amount of the lien account. Suit must be brought on the lien within 12 months after filing the affidavit.

**Louisiana.**—Every mechanic, workman, or other person doing or performing any work toward the erection, construction, or finishing of any building, erected under a contract between the owner and the builder, or other person, whether such work shall be performed as journeyman, laborer, cartman, subcontractor, or otherwise, and whose demands for labor and work done and performed toward the erection of such building have not been paid and satisfied, may deliver to the owner of such building an attested account of the amount and value of the work and labor thus performed and remaining thus unpaid, and thereupon such owner shall retain, out of his subsequent payments to the contractor, the amount of such work and labor for the benefit of the person so performing the same. The owner is prohibited from anticipating payments on a contract to the injury of the mechanics. Unless the owner obtain a bond from his contractor, he is individually liable for all debts of the contractor on the building.

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**Massachusetts.**—A lien arises for labor performed or material furnished in the erection or repair of any structure by virtue of an agreement with or the consent of the owner or of any person having authority from or acting for such owner. No lien attaches for materials where the owner of the property is not the purchaser, unless the person furnishing the same, before so doing, notify the said owner in writing that he intends to claim such lien. To render such lien effective, a sworn statement of the claim with a description of the property sought to be held must be filed in the registry of deeds within 30 days from the time of ceasing to labor or furnish materials. Suits must be commenced within 90 days from filing the claim.

**Michigan.**—Every person who, under a contract with the owner, part owner, or lessee of any interest in real estate, or under a contract with any contractor or subcontractor, performs any labor or furnishes any materials in or for the building, altering, repairing, or ornamenting of any building, machinery, wharf, wells, cisterns, or other structure, shall have a lien therefor. The contract for improvements upon any homestead must be in writing and signed by the wife. The lien attaches to such building, or other structure, and its appurtenances, and also upon the interest of such owner, part owner, or lessee, in the land, not exceeding one-quarter section, or, if in a city or village, not exceeding the lot or lots upon which the improvements are made at the time the labor or materials were commenced to be furnished. Proceedings to enforce the lien must be made within 60 days after completing the labor or furnishing the last of the material. The lien is treated as a mortgage, and enforced through a court of chancery.

**Minnesota.**—Whoever performs labor or furnishes skill, material, or machinery for the construction, alteration, or repair of any boat, house, or other building, or any fixtures, bridge, wharf, or other structure, or for grading, filling, or excavating any land, or constructing, altering, or repairing any sidewalk, curb, gutter, sewer, water pipe, or gas pipe, by virtue of a contract with the owner or his agent, trustee, contractor, or subcontractor, has a lien to secure the contract price or the value thereof; and whoever performs labor or furnishes skill, material, or machinery for the construction, alteration, or repair of any line of railway, telegraph, depot, bridge, telephone, electric light, gas pipe, or subway conduit, by virtue of a contract with the owner thereof, his agent, trustee, contractor, or subcontractor, has a lien on the same to secure the contract price or the value thereof. The lien attaches to such building, or other structure, and upon the right, title, and interest of the owner thereof to the land upon which the same is situated, not exceeding 40 acres if without the corporate limits of any city or incorporated village, and if within such corporate limits of a city or village, then not exceeding 1 acre. The claimant must, within 90 days from the time of furnishing the last item of such labor, skill, material, or machinery, file a statement verified by the oath of the party claiming the lien or by his agent or by one having knowledge of the facts, setting forth the amount due, the time when the contract was completed, a description of the property, the name of the owner, and a notice of intention to claim and hold such lien. This statement must be filed in the office of the register of deeds in and for the county in which the premises charged with the lien are situated, and in case of any boat or vessel, line of railway, telegraph, depot, bridge, fence, or other structure appertaining to any line of railway, telegraph, or telephone, such statement must be also filed within said time in the office of the secretary of state. The filing and recording of such a



statement continues the lien until 1 year after the time of furnishing the last item of the same. The lien is foreclosed in the same manner as actions for foreclosure of mortgages; but such actions must be commenced within 1 year after the furnishing of the said last item.

**Mississippi.**—A lien exists in favor of mechanics for labor performed, and in favor of those who furnish material, on all buildings or other structures. These liens are enforced in courts of law, and proceedings must be begun within 12 months from the maturity of the debt.

**Missouri.**—Mechanics or other persons doing work or furnishing materials for any building, erection, or other improvement upon land, or for repairing the same, under or by virtue of any contract with the owner or his agent, contractor, or subcontractor, have a lien therefor. The lien attaches to such building, erection, or improvements, and upon the land belonging to such owner on which the same is situated, to the extent of 1 acre, or if such building be upon any lot in a town, city, or village, then the lien shall be upon the building and the lot of land upon which the same is situated. Every person, except the original contractor, must give 10 days' notice before the filing of the lien to the owner or agent of the claim against such building or improvement, setting forth the amount and from whom the same is due. Original contractors within 6 months after the indebtedness shall have accrued, journeymen and day laborers within 60 days, and all other persons within 4 months, must file with the clerk of the circuit court of the proper county a just and true account of the demand due him, after all the credits have been given, a true description of the property upon which the lien is intended to apply, with the name of the owner or contractor, or both, if known to the person filing the lien, which shall in all cases be verified by oath. Justices of the peace have jurisdiction in suits upon mechanics' liens where the balance does not exceed \$250 in counties having over 50,000 inhabitants, and where the balance does not exceed \$150 in counties having a less number. In the city of St. Louis, justices of the peace have jurisdiction over amounts not exceeding \$500.

**Montana.**—All persons furnishing material for, or performing work or labor upon, any building, erection, bridge, flume, canal, ditch, mining claim, quartz lode, lands, railroad, telegraph, telephone or electric line, gas- or water-pipe line, or other improvements, have a lien thereon. Claimants must file an account of the amount due and a description of the property, verified by affidavit, in the office of the county clerk and recorder within 45 days after the work is performed or material furnished.

**Nebraska.**—Laborers, mechanics, and material men are entitled to mechanics' liens for materials furnished or labor performed. A lien

is secured by filing for record in the office of the register of deeds a sworn and itemized statement of the account, showing the amount due. When the claim arises out of a written contract, the same, or a copy, must be filed with the statement. In case of an original contractor, such a statement must be filed within 4 months from the time of furnishing the material or performing the labor, and in case of a subcontractor, within 60 days. The lien commences at the date of the first item and continues for 2 years from the date of filing the statement. There are two remedies for enforcing the lien: one by foreclosure and sale of the property upon decree, and the other by suit upon the account, in which case the lien continues until such suit is finally determined and satisfied.

**Nevada.**—Mechanics and others may have liens for labor and material furnished to the amount of \$5 or more. The claimant must file his claim with the county recorder, if a contractor, within 60 days, if a subcontractor or laborer, within 50 days, after the completion of the work. The lien expires within 6 months unless suit shall have been commenced.

**New Hampshire.**—Any person furnishing labor or material to the amount of \$15 on a contract with the owner for altering, repairing, or building any house, shall have a lien on the owner's right to the building and lot. Persons doing the same as above for a subcontractor may have the lien on giving notice in writing to the owner. The lien continues for 90 days. In all cases liens may be secured by attachment before they expire.

**New Jersey.**—If the work be done by contract in writing, the contractor only has a lien, provided such contract or a copy, together with specifications, be filed in the county clerk's office before such work is done or material is furnished. The lien attaches to buildings and land, and to buildings erected on leased lands with the landlord's consent, for labor and materials for building and repairing. Additions and fixed machinery are held to be buildings. Liens may be had on buildings erected on lands of another with the owner's consent in writing, and on lands of a married woman, unless she dissent in writing. Liens are extended to alterations. Liens on public buildings may be made a lien on public funds. Whenever the contractor refuses to pay material men, laborers, and mechanics, they shall give notice to the owner of such refusal and of the amount due, and the owner is thereupon authorized to retain such amount out of the money owing to the contractor, giving him written notice of such demand, and, if not paid by the contractor, the owner may pay the same. If the contractor, within 5 days after receiving such notice, shall in writing notify such laborers or material men that he disputes the claim, and request such persons to establish the same by judgment, the owner



shall not pay until it is so established, provided the contractor notify him in writing of such notice to laborers, material men, and mechanics. If the owner shall pay to the contractor money in advance of the terms of the contract, and there shall not be sufficient remaining to satisfy the claims aforesaid, the owner shall be liable as if nothing had been paid on said contract. The lien claim must be filed in the county clerk's office within 4 months from the date of the last work done or material furnished. Suits must be commenced within 4 months, and prosecuted within 1 year from the commencement of such suit, which time may be extended by agreement for a period not exceeding 4 months.

**New Mexico.**—Every person performing labor upon, or furnishing material to be used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, has a lien for the work done and material furnished; also for filling or grading a lot or street in a city. Every original contractor, within 90 days, and every other person claiming a lien, within 60 days, after the completion of the building or other structure, or the performance of labor on a mine, must file with the recorder of the county a statement of his claim under oath. Action must be begun within 1 year from the time of filing the lien, or if credit be given, then within 6 months after the expiration of the credit; provided, that in no case shall the lien continue for a longer period than 2 years by reason of credit given.

**New York.**—Any person or persons who perform labor or furnish material for the erection of a building of any kind, including railroad bridges and trestles, and all oil wells, gas wells, and structures and fixtures connected therewith, as well as houses, have a lien. Workmen and material men also have a lien upon the money due the contractor for municipal, county, and state improvements, such as roads, docks, and the like. The owner cannot be compelled to pay more than his agreement with his contractors calls for. Notice of liens may be filed with the county clerk at any time within 90 days after the final performance of the work or the final delivery of the materials, and the lienor must serve a copy on the owner. Until such service, an owner, without knowledge of the lien, is protected in his payments. Action on the lien must be brought within 1 year from the date of filing, unless the lien be continued by order for another year, and so successively.

**North Carolina.**—Every building built, repaired, or improved, together with the necessary lots on which the said building may be situated, and every lot, farm, vessel, or other kind of property, shall be subject to a lien for the payment of all debts contracted for work done on the same or material furnished. Notice of the lien shall be

filed, at any time within 12 months after the completion of the labor or the final furnishing of materials, in the office of the clerk of the superior court. All subcontractors or laborers who furnish material for the building, repairing, or altering of any house or other improvement on real estate shall have a lien for the amount of such labor done or material furnished, which lien shall be preferred to the mechanics' lien now provided by law, when he shall give notice to the owner or lessee of the real estate, who makes the contract for such building or improvement, at any time before the settlement with the contractor; and, if the said owner or lessee shall refuse or neglect to retain from the amount due the said contractor under the contract as much as shall be due or claimed by the subcontractor, laborer, or material man, the subcontractor, laborer, or material man may proceed to enforce his lien, and after such notice is given no payment to the contractor shall be a credit on or discharge of the said lien herein provided. But the sum total of all the liens due subcontractors and material men shall not exceed the amount due the original contractor at the time of the notice given. Proceedings to enforce the lien must be commenced in the superior court within 6 months after the date of filing the notice of the lien; provided, that if the debt be not due within 6 months, but become due within 12 months, suit may be brought or other proceedings instituted to enforce the lien in 30 days after it is due.

**North Dakota.**—Any person who shall perform any labor upon, or furnish any materials, machinery, or fixtures for the construction or repair of any work of internal improvement, or for the erection, alteration, or repair of any building or other structure upon land, or in making any other improvement thereon, including fences, sidewalks, paving, wells, trees, grades, drains or excavations under the contract of the owner of such land, his agent, trustee, contractor, or subcontractor, or with the consent of such owner, shall have a lien upon such building, erection, or improvement for such labor done or materials furnished; provided, that no person furnishing any such materials, machinery, or fixtures for a contractor or a subcontractor shall be entitled to file such lien unless he notify the owner of the land by registered letter previous to the completion of the contract that he has furnished such materials, machinery, or fixtures. The claimant must file a verified account of his claim, or demand, with the clerk of the district court of the county or judicial subdivision in which the property to be charged is situated, within 90 days after all the things shall have been furnished or labor performed.

**Ohio.**—A person who performs labor, or furnishes machinery or material for construction, altering, or repairing a boat, vessel, or other water craft, or for erecting, altering, repairing, or removing a house, mill, manufactory, or any furnace or furnace material therein, or other building, appurtenance, fixture, bridge, or other structure, or for



digging, drilling, plumbing, boring, operating, completing, or repairing any gas well, oil well, or any other well, or performs labor of any kind whatsoever in altering, repairing, or constructing any oil derrick, oil tank, oil- or gas-pipe line, or furnishes tile for the drainage of any lot or land, by virtue of a contract with or at the instance of the owner thereof, his agent, or trustee, shall have a lien to secure the payment of the same upon such boat, vessel, house, or other structure. The claimant must file with the recorder of the county where the labor was performed or machinery or material was furnished, within 4 months from the time of performing such labor, or furnishing such material or machinery, an affidavit containing an itemized statement of his claim. Any subcontractor may obtain a lien against any money due from the owner to the principal contractor by filing with the owner a sworn and itemized statement of his account against the principal contractor; and, upon receiving such notice the owner must detain in his hands all subsequent payments from the principal contractor to secure such account; such subcontractor must also file with the recorder of the county a copy of such statement in order to notify his fellow subcontractors. The lien dates from the first item of the said account upon the property so designated, and the interest of the owner thereof in the land upon which the same is situated or may be removed to, for 6 years from and after the date of filing such statement.

**Oklahoma.**—Any person who shall, under contract with the owner of any tract or piece of land, or the trustee or agent for such land, furnish material for the erection of any building or improvements thereon, or who shall furnish or perform labor in putting up any fixtures or attachments of any kind to such buildings, or who shall plant any trees, vines, or hedges upon such land, or who shall build, alter, or repair, or furnish labor or material for building, altering, or repairing any improvements upon such land, shall have a lien upon the whole of said piece or tract of land, and the buildings and improvements thereon, for the amount due him for such labor or materials. Suit to foreclose a mechanic's lien must be commenced within 1 year.

**Oregon.**—Notice of the lien must be filed with the county clerk, within 60 days after the work is done by the original contractor, and within 30 days by a laborer or subcontractor. The lien continues for 6 months.

**Pennsylvania.**—An act of assembly was approved on June 4, 1901, the title to which is as follows: "An act defining the right and liabilities of parties to, and regulating the effect of, contracts for work and labor to be done, and labor or materials to be furnished, to any building, bridge, wharf, dock, pier, bulkhead, vault, subway, tramway, toll road, conduit, tunnel, mine, coal breaker, flume, pump, screen, tank, derrick, pipe line, aqueduct, reservoir, viaduct, telegraph,

telephone, railway or railroad line, canal, millrace, works for supplying water, heat, light, power, cold air, or any other substance furnished to the public, well for the production of gas, oil, or other volatile or mineral substance; or other structure or improvement of whatsoever kind or character the same may be; providing, remedies for the recovery of debts due by reason of such contracts and repealing, consolidating, and extending existing laws in relation thereto." Section 2 provides that every structure or other improvement and the curtilage appurtenant thereto shall be subject to a lien for the payment of all debts due to the contractor or subcontractor in the erection and construction or removal thereof, in the addition thereto, and in the alteration and repair thereof, and of the outhouses, sidewalks, yards, fences, walls, or other enclosure belonging to said structure or other improvement; and in the fitting up or equipment of the same for the purpose for which the improvement is made, including paper hanging, grates, furnaces, heaters, boilers, engines, chandeliers, brackets, gas and electric pipes, wires and fixtures; and for like debts contracted by such owner in the fitting up or equipment with machinery, gearing, boilers, engines, cars, or other useful appliances of new or old structures, or other improvements for business purposes; and for like debts contracted by such owner for rails, ties, pipes, poles and wires, and the excavation for and laying and relaying or stringing and restringing said rails, ties, pipes, or wires, or erecting said poles, whether on the property described in the claim or upon other private property or public highways. It is provided, however, that no lien shall be allowed for labor or materials furnished for purely public purposes; nor against any property held by the committee of a lunatic, the guardian of a minor, or a trustee under deed, will, or appointment by the court, unless by virtue of a contract made under authority of the court, or of the power contained in the deed or will. No claim, however, for alterations or repairs, or for fitting up or equipping old structures with machinery, gearing, boilers, engines, cars, or other useful appliances shall be valid, unless it be for a sum exceeding \$100; and in the case of a subcontractor unless also written notice of an intention to file a claim therefore, if the amount due be not paid, shall have been given to the owners or some one of them, or for him to an adult member of his family or the family with which he resides, or to his architect, agent, manager, or executive, or principal officer on or before the day the claimant completed his work or furnished the last of his materials. No claim is valid against the estate of the owner by reason of any consent given by him to his tenant to improve the leased property, unless it shall appear in writing signed by such owner that the improvement was, in fact, made up for his immediate use and benefit. (See Laws of Pa., 1901, pp. 431-469. See also Laws of Pa., 1903, pp. 255, 256, 297, 298.)



**Rhode Island.**—Any person who does work or furnishes material for any building or improvement upon any real estate, at the request of the owner thereof, or at the request of the husband of the owner if his wife consent in writing, has a lien. Any person who does such work or furnishes such material for a tenant or lessee of real estate has a lien upon the interest of such tenant or lessee. If the work be done under a written contract, the account or demand must be left in the office of the town clerk or recorder of deeds of the town or city where the real estate is situated, within 4 months after the claim is due and unpaid, or if not under written contract, within 6 months from the time of beginning work or furnishing material in order to enforce the lien. Any person who works for the contractor must give notice to the owner of his intention to claim a lien within 30 days from the commencement of work, and file his account within 4 months after giving said notice. Any person who furnishes materials to the contractor must give notice to the owner of the real estate of his intention to claim a lien, and file a copy of such notice in the office of the town clerk or recorder of deeds within 60 days from the time the materials are placed upon the land. Proceedings in equity on the lien must be commenced within 20 days from filing the account.

**South Carolina.**—Mechanics who have contracted with the owner to labor or to supply materials have a lien against the building and land appurtenant for such labor or materials. The lien must be filed in the proper office within 90 days. Proceedings to enforce such lien must be commenced within 6 months from the time the claimant ceased to furnish labor or materials.

**South Dakota.**—Every mechanic, or other person, who shall do any labor upon, or furnish any materials, machinery, or fixtures for any building, erection, or other improvement upon land, including those engaged in the construction or repair of any work of internal improvement, by virtue of any contract with the owner, his agent, trustee, contractor, or subcontractor, and any contractor or subcontractor, shall have a lien therefor. Notice of such lien, duly verified, must be filed with the clerk of the circuit court of the county in which the building, erection, or other improvement to be charged with the lien is situated, within 4 months after the material is so furnished or the labor performed.

**Tennessee.**—All persons performing work or furnishing materials, by special contract with the owner or his agent, which contract must be in writing and signed by her if the owner be a married woman, have a lien upon any lot of land upon which a house has been constructed, built, or repaired, or fixtures or machinery furnished or erected, or improvements made. The benefit of this lien extends to any workman or furnisher of material who gives notice to the

owner within 30 days after the completion of the work, or after his discharge. The lien continues for 1 year from the completion of the work, during which time suit to enforce it must be begun.

**Texas.**—Mechanics, contractors, builders, and material men may have liens. In the case of homesteads, no lien is allowed, unless the contract be in writing and signed by the wife. The original contractor must file his contract for record in the county recorder's office within 4 months after the accruing of the indebtedness; other persons within 30 days. If the contract be verbal, other formalities are required.

**Utah.**—Mechanics, material men, contractors, subcontractors, builders, architects, engineers, artisans, and persons of every class performing labor upon or furnishing materials, or designs, plats, maps, surveys, and the like, to be used in the construction, alteration, addition, or repair of any building, bridge, aqueduct, railroad, wagon road, or other structure or improvement upon land, or any mine or mining claim, have a lien thereon. Notice of intention to hold and claim the lien must be filed in the office of the county recorder within 60 days after the completion of his contract, in case of the original contractor; in every other case, within 40 days after furnishing the last material or performing the last labor. Liens may be enforced in any court of competent jurisdiction within 12 months after the completion of the original contract or the suspension of work thereunder for 30 days.

**Vermont.**—The claimant must record a memorandum asserting a lien, signed by him, in the town clerk's office of the town where the improvement is situated, within 3 months, and follow this by an action on the claim if the debt be then due, or if not due, then within 3 months after it becomes due. The property on which the lien is claimed is to be attached within 5 months after judgment is obtained, a certified copy of the record is to be recorded, and the lien then becomes one in the nature of a mortgage to be enforced by foreclosure.

**Virginia.**—A subcontractor's lien shall in no case exceed the amount of the indebtedness of the owner to the general contractor at the time the notice was served by a subcontractor. The general contractor, subcontractor, or other person contracting to furnish material, within 60 days after the completion of the improvements, must file in the office of general record for the county or corporation, a sworn statement of his account for the work done and materials furnished, signifying the claimant's intention to claim the benefit of such lien, and describing the property; and the subcontractor, in addition, shall give notice in writing to the owner of the property of the amount and character of his claim. This lien is enforceable in equity; but no suit may be brought after 6 months from the time when the last payment was due.

**Washington.**—Any person performing labor upon, or furnishing material to be used in the construction, alteration, or repair of any



mining claim, building, wharf, bridge, dike, flume, tunnel, fence, machinery, railroad, street railway, wagon road, aqueduct, or any other structure, or who performs labor in any mine or mining claim, or stone quarry, has a lien upon the same for such labor and materials. Any person who, at the request of the owner of any real property, cleans, grades, fills in, or otherwise improves the same, or any street or road in front of, or adjoining, the same, has a lien upon such real property for such labor or the materials furnished for such purpose. The claimant, within 90 days after the completion of any building, alteration, or repair, or after ceasing to labor thereon or furnish materials therefor, must file a statement of his claim, properly verified, in the county auditor's office. No such lien binds the property longer than 8 months thereafter, unless foreclosure proceedings be begun. Such liens are foreclosed as mortgages of real estate.

**West Virginia.**—Every mechanic, builder, artisan, workman, laborer, or other person, who shall perform any labor upon or furnish any material or machinery for constructing, altering, repairing, or removing a house, mill, manufactory, or other building, appurtenances, fixtures, bridge, or other structure, by virtue of a contract with the owner or his authorized agent, shall have a lien to secure the payment of the same upon such house or other structure, and upon the interest of the owner in the lot of land on which the same stands or to which it may be removed. The laborer and mechanic shall have the first lien, and the liens of the laborers, mechanics, or persons furnishing machinery or material to a contractor shall take precedence over any lien already taken or to be taken by the contractor indebted to them.

**Wisconsin.**—Any building, lot, wharf, or channel upon which labor or materials are used or furnished by any person, mechanic, or otherwise, for any construction, repairing, fencing, filling, or dredging, is liable to a mechanic's lien thereon, and the lien binds 1 acre of ground in connection therewith, if within a city or village, or 40 acres elsewhere. The lien does not exist unless evidenced by the filing of a claim therefor in the circuit court within 6 months from the last date of furnishing the labor or materials. A subcontractor has the same right to a lien as a principal contractor, if within 60 days after completing his subcontract he give notice of his claim and its amount to the property owner. The lien lapses unless foreclosed by suit brought in a court of record within 1 year from filing, or unless renewed for 1 year by notice setting forth the claimant's interest in the property within 30 days before the expiration of such year.

**Wyoming.**—Any person who shall perform any labor or furnish materials or machinery for the erection, repair, or removal of any house, mill, or other building, at the request of the owner thereof, shall have a lien thereon for the same.

## PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Every contractor or subcontractor, laborer, or furnisher of material has a lien for his labor and material furnished in connection with the construction, erection, alteration, or repair of any building and other works. The lien must be filed within 31 days after the work is completed. An action to enforce the lien must be commenced within 30 days after filing.

**Manitoba.**—Unless he sign an agreement to the contrary, every workman who places or furnishes any materials to be used in making, constructing, erecting, fitting, altering, improving, and repairing any erection, building, land, wharf, pier, bulkhead, bridge, trestle work, vault, mound, well excavation, sidewalk, paving, fountain, fish pond, drain, sewer, aqueduct, roadbed or way, or any of the appurtenances, for any contractor, owner, or subcontractor, shall be entitled to a lien for the price of such work, service, or materials upon such erection, building, land, or the structures aforesaid. Every claim for a lien must be registered, with an affidavit verifying the same, within 30 days after the completion of the work. The lien must be proceeded on by action, the form of which is specifically provided by the Mechanics', Wage Earners', and Others' Lien Act of 1899, within 90 days from the date of the completion of the work.

**New Brunswick.**—The lien of wage earners is for wages not exceeding 30 days. An itemized claim of the lien, verified by affidavit, must be registered within 30 days from the completion of the work. Registered liens are good for 90 days only, unless proceedings be taken to realize within that time.

**Ontario.**—The liens must be registered in the local registry office during the progress of the building, or within 1 month after its completion, or the furnishing of material. All liens must be enforced within 90 days by action in the high court of justice, or in the county or division court.

**Quebec.**—Laborers, workmen, architects, and builders, in the order named, have a right of preference over other creditors, only upon the additional value given to the estate by their work. This right of preference gives them, on the property upon which the building is erected, a lien or privilege which exists without registration during the whole time the work lasts. If the lien be registered within the 30 days following the completion or the cessation of the work, it exists for 1 year from the date of the registration.



## MORTGAGES AND TRUST DEEDS

There are provisions in all jurisdictions whereby, when the mortgage debt has been paid, the mortgagee must enter satisfaction thereof of record, or become liable to certain penalties. The methods prescribed for the enforcement of mortgages vary considerably in the different jurisdictions. In some states they may be enforced only in equity; in others, there are statutory actions provided, as by *scire facias*; and, in still others, it is permitted to insert a power of sale in the instrument itself under which the mortgagee or other person named therein may, on default, sell the premises conveyed to satisfy the debt. Where trust deeds are used, such a power of sale is given to the trustee, and after due advertisement and notice he may sell as above. Usually after the sale of such realty, either under judicial decree or under such a power, all right, title, and interest of the mortgagor therein is foreclosed; but in some jurisdictions he or his judgment creditors are allowed a certain period within which he or they may redeem the said premises by the payment of the amount for which the property was sold, with interest thereon, together with taxes and costs.

**Alabama.**—The power to foreclose a mortgage by sale of the property, or otherwise, may be given to the mortgagee without the aid of the courts, and the mortgagee may purchase at the sale, if such power be incorporated in the mortgage. The foreclosure in such instances is governed by the provisions of the instruments. Power to sell the mortgaged lands follows the assignment of the debt. Without such power they are foreclosed in equity. An equity of redemption exists for 2 years after the sale; the debtor must tender to the purchaser, or any one who has the title to such realty, the purchase money with 10 per cent. per annum and all other lawful charges. Vendors of lands have a lien on the land for the purchase money, which may be enforced by a bill in chancery, whether expressed in the conveyance or not, as against all persons having verbal or written notice.

**Arizona.**—The mortgage may contain a power of sale; whether it does or not, it may be foreclosed by suit in the district court. Without such foreclosure and sale thereunder the owner cannot recover possession. Trust deeds may be given upon all interests in real estate.

**Arkansas.**—Sales under mortgages and deeds of trust can be made only after appraisalment, and the property must bring two-thirds of the appraised value. In case the property be offered and fail to

bring the required amount, it may be offered again after 1 year, and then sold for what it will bring. Realty may be redeemed within 12 months by paying the amount the property sold for, with 10 per cent. interest and costs.

**California.**—Every transfer of interest in real property, other than in trust, made only as the security for the performance of any act, is to be deemed a mortgage, and the fact that the transfer was made subject to defeasance on a condition may be proved, except as against a subsequent purchaser or encumbrancer for value and without notice, although the fact does not appear by the terms of the instrument. A mortgagee may by action foreclose the right of redemption of the mortgagor; or a power of sale may be conferred by a mortgagor or any other person, to be exercised after a breach of the obligation. Trust deeds may be used. (*See Book of Forms.*)

**Colorado.**—The mortgage must be foreclosed by judicial proceedings, and sold by a commissioner or master in chancery, after which the mortgagor has 6 months from the sale within which to redeem, and judgment creditors of the mortgagor have 3 months additional time from the sale within which to redeem. The old form of trust deed has been practically abolished by the act of March 5, 1894. A public trustee is now appointed in each county who must be named as trustee in every such trust deed. In case any other person be named trustee, the instrument is deemed a mortgage, and must be foreclosed the same as a mortgage. In case the public trustee be named, on default he sells the property as provided in the deed, after due advertisement; grantors and their creditors have the same right of redemption after sale as mortgagors.

**Connecticut.**—Mortgages may be foreclosed by equity proceedings, or by a decree of sale, at the discretion of the court. The mortgagor may redeem within a certain time thereafter fixed by the court, usually from 2 to 6 months. On motion of either party the land will be appraised by three disinterested persons, appointed by the court for the purpose, whose appraisal will be conclusive as to its value, and in any other action upon the mortgage debt the creditor can recover only the excess of the debt above such valuation. Trust deeds are rarely used. (*See Book of Forms.*)

**Delaware.**—A mortgage made by the purchaser to the vendor for securing the purchase money or any part thereof, upon being recorded within 30 days after the making thereof, shall have preference to any other lien, although such lien shall be prior in date. Upon foreclosure of mortgages, there can be no redemption of the property.

**District of Columbia.**—Trust deeds are used to the exclusion of mortgages. They provide for sale by the trustee after advertisement published in a daily newspaper. There is no provision for



redemption from sales made by trustees. They are released by deed from the trustee.

**Florida.**—All instruments conveying or selling property executed to the creditor directly, or to some person for him, if intended to secure the payment of money, are deemed mortgages. They are foreclosed by a bill in equity in the circuit court, and no redemption is allowed.

**Georgia.**—Mortgages on realty are not much used in this state, except by corporations, because they are only a lien on property, and do not bar the right of dower. Deeds to secure debts are much preferred, because they pass title, which remains in the vendee until the debt is paid, and consequently bar all claims for dower, year's support, homestead, and the like. Mortgages on realty are foreclosed by petition to the superior court of the county where the land lies, and judgment may be rendered at the second term. In case of deeds to secure debts, the plaintiff simply sues his debt to judgment at common law, in the ordinary way, and then executes a deed of the land to the defendant, and files the same in the clerk's office of the superior court of the county where the land lies, and has it recorded, and then has a levy made on the land, as in case of an ordinary execution. He can purchase at the sale, and his lien is preferred above all other claims which have arisen after the making of his deed. (See *Book of Forms*.)

**Idaho.**—Mortgages are foreclosed by action in the district court. Trust deeds with power of sale may be used. Real property sold under decree of foreclosure of any encumbrances, or under execution upon a judgment, may be redeemed at any time within 1 year from the time of sale by the judgment debtor or his successor in interest, or by any person holding a lien or encumbrance upon the property sold, by paying the amount for which the property was sold and 12 per cent. in addition, and all taxes or assessments which may have been paid by the purchaser subsequent to the sale. If no redemption be made within 1 year the purchaser is entitled to his deed absolute from the sheriff.

**Illinois.**—All mortgages may be foreclosed in equity, and 12 months from the date of the sale thereof are allowed to all defendants to redeem, and 15 months from the sale, to judgment creditors of the defendants. Mortgages may also be foreclosed by *scire facias*, but in practice this is seldom resorted to. Trust deeds are more commonly used than mortgages, but must be foreclosed in the same manner.

**Indian Territory.**—The title to real estate in this territory is in some one of the several Indian tribes or nations; hence, there are no valid real-estate mortgages here, except in the Creek and Seminole nations. In the latter nations, town property may be mortgaged.

**Indiana.**—Mortgages of real estate, to be valid as against subsequent purchasers and mortgagees, must be recorded in the office of the recorder of the county in which the real estate is located, within 45 days from the date of execution. Trust deeds are not used, and all such instruments are deemed to be mortgages, the power of sale therein being null and void. All mortgages must be foreclosed by judicial proceedings, and the property sold by the sheriff, who executes a certificate to the purchaser, entitling him to a deed absolute to the property at the expiration of 1 year from the date of sale, unless previously redeemed by the payment of the purchase price with 8 per cent. interest. Mortgages may be assigned on the margin of the record, where recorded, or by other instrument, which should be acknowledged in the same manner as a mortgage, and recorded within 45 days. (See *Book of Forms*.)

**Iowa.**—In order that a vendor's lien for unpaid purchase money may be recognized or enforced after a conveyance of the vendee, such lien should be preserved by a conveyance, mortgage, or other instrument, duly acknowledged and recorded. The holder of any real-estate mortgage can foreclose the same only by a civil action brought in the proper court. When a real-estate mortgage is foreclosed and the property sold under special execution, the mortgagor, or his grantee, has 1 year from the date of the sale within which to redeem. Trust deeds may be used, but must be foreclosed by equitable proceedings in the same manner as mortgages.

**Kansas.**—Mortgages may be foreclosed by suit only. After sale under a mortgage, the mortgagor has 18 months in which to redeem the same, which can be done by paying the amount for which the property was sold, together with interest, costs, and taxes. At any time after the expiration of 12 months from the date of the sale a creditor whose claim is a lien upon the mortgaged property has the right to redeem the same within 15 months after the date of the sale, provided the mortgagor have not within that period exercised the right of redemption. A mechanic's lien, before decree enforcing the same, shall not be deemed such a lien as to entitle the holder to redeem. During the entire period in which the mortgagor is entitled to redeem, he is entitled to the possession of the property. If real property have once been sold under a mortgage and have been redeemed, no execution for any deficiency between the amount of the judgment and the amount for which the property was sold can be levied upon the said property. Trust deeds with power of sale by the trustee are not used. (See *Book of Forms*.)

**Kentucky.**—Mortgages must be recorded in order to be valid as against creditors or purchasers without notice. They are acknowledged as deeds. Land sold under execution or decree for less than two-thirds of its appraised value may be redeemed in 12 months.



**Louisiana.**—Mortgages are conventional, judicial, and legal. A conventional mortgage is granted by an act hypothecating designated property for a stated consideration to secure the debt; usually it is made to import a confession of judgment, and may be foreclosed summarily, and on an *ex parte* order of court. A judicial mortgage results from the recordation of a judgment, and affects all property situated within the parish in which it is recorded. It can only be enforced by execution. A legal mortgage is one granted by law, as that in favor of a minor on his tutor's property. A legal mortgage necessitates a suit to fix rights. (See *Book of Forms*.)

**Maine.**—Mortgages may be foreclosed by taking possession by suit, by written consent of the mortgagor, or by peaceable entry in the presence of two witnesses. An abstract of the writ and the return, the written consent, or the certificate is to be recorded within 30 days thereafter. Foreclosure may be made without taking possession by 3 weeks' notice in a newspaper, or by service of notice on the mortgagor, followed by record thereof in 30 days. A period of 3 years thereafter is allowed for redemption, but the parties may agree upon a period of 1 year. Trust deeds are rarely used.

**Maryland.**—In addition to the formal instrument, the mortgage deed, there is required an affidavit or affirmation by the mortgagee or his agent, that the consideration expressed in the mortgage is true and *bona fide* as therein set forth, and also that he has not required the mortgagor nor any person for the mortgagor to pay the tax levied upon the interest, nor will require the same to be so paid during the mortgage. To be valid as against creditors it must be recorded within 6 months. (See *Book of Forms*.)

**Massachusetts.**—For a mortgage the form of warranty deed is used, with the addition thereto of the condition, and, now almost universally, a power of sale in case of the non-performance of the condition. A mortgage recorded more than 4 months after its date shall not be valid as against an assignee in insolvency of the mortgagor in insolvency proceedings begun after the date of the mortgage and before the expiration of 1 year from the record thereof. A mortgage without a power of sale is foreclosed by entry upon the premises in presence of two witnesses, which must be peaceable and unopposed, and recording the certificate of such entry in the registry of deeds within 30 days thereafter. If not redeemed in 3 years, the foreclosure becomes absolute, unless some payment on account of interest or principal of the mortgage debt have been received by the mortgagee. Foreclosure proceedings may also be taken in the courts. (See *Book of Forms*.)

**Michigan.**—Real-estate mortgages may be foreclosed either in chancery, or by statutory advertisement. In the former case the sale cannot take place within 6 months after filing bills, and 6 months'

time is allowed for redemption. In the latter case a period of 1 year after the sale is allowed for redemption. (See *Book of Forms*.)

**Minnesota.**—A wife need not join in a purchase-money mortgage. Mortgages are foreclosed either by an action brought for that purpose, or, when the mortgage contains a power of sale, by a sale made on notice without proceedings in court. Where the mortgaged property is sold under the power, the sale must be advertised in a newspaper once a week for 6 weeks before the sale, and notice given the occupant of the premises, if any. Mortgaged property sold may be redeemed by the mortgagor, his heirs, executors, administrators, or assigns, by paying the amount for which the property was sold, with interest, within 1 year after the date of the sale in case of foreclosure by sale under a power in the mortgage, and within 1 year from the date of the order confirming the sale in case of foreclosure by action in court. If the mortgagor do not redeem, judgment creditors may redeem in the order of priority of their liens. Each creditor is allowed 5 days after the time limited to all prior lien holders, and he must pay the amount aforesaid and the amount of all liens held by the party from whom he redeems. Notice of the intention of a lien holder to redeem must be filed before the expiration of the year allowed the mortgagor for redemption. Trust deeds are construed as mortgages. (See *Book of Forms*.)

**Mississippi.**—Mortgages may be foreclosed as at common law, or by a power of sale contained therein. There is no provision made for redemption. Deeds of trust are in general use for conveying real or personal property as security. The property is usually conveyed to a trustee, with power in him to sell at auction if the debt shall not be paid at maturity. The property remains in possession of the grantor until the condition is broken. They are recorded as deeds are, and record notice is binding on subsequent purchasers.

**Missouri.**—To secure the payment of debts, deeds of trust conveying real estate are universally used, although mortgages are permitted. The estate is thereby conveyed to a trustee, who is authorized, upon default in the payment of the debt or in the performance of any covenant in the deed, to advertise the property for sale, and to sell the same at public auction upon such terms as may be specified in the deed. At least 20 days' public notice is required, and the sale must take place in the county in which the property to be sold is situated. If the deed of trust be foreclosed by suit, the right of redemption is absolutely barred. If the sale by the trustee under the deed of trust take place by advertisement alone, as above, and the property be bought by the *cestui que trust* or his assignee, or by any person for them, such property is subject to redemption by the grantor or his representatives at any time within 1 year from the date of sale,



on payment of the debt, interest, and costs up to the time of redemption. Before any party can avail himself of his right of redemption he must give security, satisfactory to the circuit court, for the payment of the interest to accrue after the sale and for all damages and waste that may be occasioned or permitted by the party whose property is sold. No foreign corporation or individual shall act as trustee in any deed of trust or other conveyance hereafter made by any person, firm, or corporation, whereby any property situated or being in this state is hereafter conveyed in trust for any purpose whatever, unless in such conveyance there shall be named as cotrustee a corporation organized under the laws of this state, and having power to act as trustee and execute trusts, or an individual citizen of this state. When the debt is barred by the statute of limitations, the right to foreclose is also barred.

**Montana.**—Mortgages must be foreclosed by action in the district court, and 1 year is allowed for redemption.

**Nebraska.**—Mortgages can be foreclosed only by suit. If the lands described in the mortgage lie in more than one county, whether in a single or in separate tracts, the suit for foreclosure may be brought in any county wherein any parts of the lands are situated. After the foreclosure suit is commenced, no action at law can be maintained on the debt, without special leave of court. If an action at law on the debt be first commenced, no foreclosure suit can be maintained on the debt until the action on the debt has proceeded to judgment and an execution has been returned unsatisfied for want of property other than the mortgaged premises whereof to satisfy such execution. A decree of foreclosure is stayed without bond for 9 months by the owners filing a request for such stay within 20 days after the decree is entered. The owner may redeem at any time before the confirmation of the sale, but not thereafter. Trust deeds are construed as mortgages, and must be foreclosed as such.

**Nevada.**—Mortgages may be foreclosed only by suit therefor. The right of redemption runs for 6 months after the day of sale.

**New Hampshire.**—Mortgages may be foreclosed by entry under process of law into the premises and continued actual possession for 1 year, or by peaceable entry in the presence of two witnesses and continued actual possession for 1 year. The affidavits of entry shall be recorded, and published in a newspaper within the county. The debtor has one year to redeem after possession is taken for foreclosure. A power of sale is sometimes used, and the mortgagee may be a purchaser if there be an agreement to that effect. Trust deeds are subject to the same provisions as mortgages.

**New Jersey.**—Mortgages must be recorded within 15 days from date. They are foreclosed by proceedings in chancery, or in the

circuit courts when the land is wholly in one county. There is no redemption after such sale. Trust deeds are not used. (See *Book of Forms*.)

**New Mexico.**—Mortgages and trust deeds may be foreclosed in chancery; or in case there be a power of sale therein, the property may be sold at public auction under such power. In the latter case, the real estate may be redeemed within 1 year from the date of such sale. Where it is sold under the decree of the court, the decree must stand 90 days before the sale, during which time the defendant may pay the claim and release the property, but after the sale there can be no redemption.

**New York.**—A statutory, but not exclusive, form of mortgage is prescribed and the execution and record are governed by the same law as deeds. Mortgages are ordinarily foreclosed in equity, but may be foreclosed by advertisement and the service of notices upon the proper parties under the statute. A mere mortgagee has no estate in the mortgaged premises and has only a lien upon them. There can be no redemption after sale. (See *Book of Forms*.)

**North Carolina.**—Mortgages and trust deeds are foreclosed by suit unless a power of sale be given therein. When there are two or more mortgagees or trustees, the survivor is authorized to execute the power of sale. There can be no redemption after sale.

**North Dakota.**—If the mortgage contains a power of sale, it may be foreclosed by advertisement. The possession of real property sold upon foreclosure is not delivered to the purchaser until the end of 1 year; during this year the mortgagor, or his assigns, or any subsequent encumbrancer, or judgment lien holder, may redeem the property by payment of the amount for which it was sold with 12 per cent. interest and taxes.

**Ohio.**—Mortgages are foreclosed by suit in the court of common pleas. There can be no redemption of lands sold under foreclosure after confirmation of the sale by the court.

**Oregon.**—Mortgages must be recorded within 5 days after the execution and delivery thereof to be valid against subsequent purchasers in good faith without notice and for value. Foreclosure is by suit in equity. Trust deeds are not commonly used.

**Pennsylvania.**—The wife need not join in a mortgage of the husband's realty; her dower will be barred by a sale thereunder. No defeasance to any deed for real estate regular and absolute upon its face shall have the effect of reducing it to a mortgage, unless the said defeasance be made at the time the deed is made and be in writing, signed, sealed, and acknowledged, delivered, and recorded within 60 days from the execution thereof. No mortgage shall be a lien



until it is recorded, except that purchase-money mortgages may be recorded within 60 days from the execution thereof. Where the lien of a mortgage is prior to all other liens upon the same property, except other mortgages, ground rents, assessments, and municipal claims, the lien of such mortgage shall not be destroyed by any judicial or other sale. Mortgages may be foreclosed in equity, but the usual procedure is by *scire facias*, or by entering up judgment on the bond accompanying the mortgage. There can be no redemption after sale. Trust deeds are not used as security for loans. (See *Book of Forms*.)

**Rhode Island.**—Mortgages of real estate almost universally contain a power of sale upon default, and resort to the courts for a foreclosure is rare. The power of sale goes with an assignment of the mortgage and debt. The mortgagee or assignee of the mortgagee may become the purchaser at such sale by giving notice in the advertisement of his intention to bid at the sale. Such sale takes away the right of redemption. Trust deeds are not used as security for loans.

**South Carolina.**—A mortgage must be recorded within 40 days from the execution thereof, in order to have effect from its date. It is foreclosed by a civil action in the court of common pleas. Trust deeds are also used, subject to the same regulations as to execution and recording as mortgages; but lands cannot be sold under a power contained therein unless the mortgagor agree in writing on the face of the instrument to the amount due thereon within 12 months. (See *Book of Forms*.)

**South Dakota.**—A power of sale may be inserted in the mortgage conferring such power upon the mortgagee. The mortgage may then be foreclosed by advertisement, unless on the application of the mortgagor or his successor in interest the court direct that the foreclosure be made by action. One year is allowed for redemption, during which time the mortgagor retains possession of the premises. Trust deeds are not commonly used.

**Tennessee.**—A trust deed is the usual conveyance used to secure money upon land, by which the property is conveyed to a trustee, with power, upon default of payment at maturity, to sell the property upon published notice of 20 or 30 days. All rights of redemption, dower, and homestead are usually waived in the conveyance, and the purchaser gets all the title the grantor had without litigation or delay. This avoids a foreclosure proceeding in equity, which is necessary in case of ordinary mortgages.

**Texas.**—Deeds of trust are commonly used, with power of sale by the trustee named therein. There can be no redemption after the sale thereunder.

**Utah.**—A short form of mortgage is provided by statute. Mortgages may be foreclosed only by foreclosure proceedings in court. Trust deeds are much used in place of mortgages, and may be foreclosed as such, or by advertisement in the newspapers and sale by the trustee. In either case any party in interest may redeem within 6 months.

**Vermont.**—Mortgages of real estate are foreclosed by a bill of petition and a writ of possession which is given after the decree and on failure to redeem. The usual time for redemption granted in the decree is 1 year, but this time may be shortened upon cause shown. Trust deeds are not used as security for debt.

**Virginia.**—Mortgages are rarely used, except by railway and similar corporations for securing payment of their bonds. Deeds of trust are in general use, which are foreclosed by the trustee in case of default, without resort to the courts. (See *Book of Forms*.)

**Washington.**—Mortgages are generally made to secure the payment of accompanying promissory notes. They are foreclosed in the superior court, or may be enforced by execution as an ordinary judgment. The property sold thereunder may be redeemed at any time within 1 year, by paying the amount of the bid, with 8 per cent. interest, together with taxes. The purchaser is entitled to possession from the time of sale to redemption. Trust deeds, when used, are treated as mortgages.

**West Virginia.**—Mortgages are seldom used; they can be enforced only in chancery. The ordinary mode used to secure debts is by deeds of trust. The trustee may advertise and sell the property so conveyed at public auction without the aid of the court. There must be 4 weeks' notice of the sale by advertisement and posting, and notice must be served on the mortgagor or his agent at least 20 days before the sale. There can be no redemption after such sale.

**Wisconsin.**—A short form of mortgage is prescribed by statute, and a mortgage may be assigned by indorsement on the original instrument. Mortgages of realty may be foreclosed by action in the circuit court or other court of record of the county where the land lies, and a reasonable sum may be stipulated in the mortgage and obtained by order of the court as attorney's fee on foreclosure. Mortgages may also be foreclosed by advertisement, if so stipulated in the mortgage. The mortgagor may redeem the property 1 year after judgment on foreclosure. Trust deeds are not used in lieu of mortgages. (See *Book of Forms*.)

**Wyoming.**—Mortgages may be foreclosed either by action, or, in case where a power of sale is contained in the mortgage, by



advertisement and sale thereunder. In either case, the property so sold may be redeemed within 6 months from the date of the sale by payment of the amount for which the property was sold and 10 per cent. interest thereon.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Mortgages of real estate should be executed as deeds and registered. Priority of registration creates priority of title, and purchasers for a valuable consideration of registered real estate are not affected by notice, express or implied, of any prior unregistered title affecting the same, save only leasehold interests in possession for a term not exceeding 3 years. A short form of mortgage is provided by statute, the use of which is advisable.

**Manitoba.**—Property under the Torrens system is mortgaged by a signed memorandum of mortgage which is filed in the registry office. Mortgages are enforced by foreclosure, or by sale under the power of sale usually contained in them.

**New Brunswick.**—Mortgages must be proved or acknowledged in the same manner as deeds, and, to be effectual against creditors and *bona-fide* purchasers, must be recorded. They are foreclosed by a bill in equity, or by a power of sale, if any, inserted in the mortgage.

**Nova Scotia.**—Mortgages must be executed as deeds. A mortgage is foreclosed by an action in the supreme court, and is discharged by a release in which reference is made to the registry of the mortgage. This release must be executed as a deed, and on the margin of the registry of the mortgage must be entered a note that the same has been redeemed.

**Ontario.**—Mortgages may be foreclosed by suit, or by sale under the power contained therein. There can be no redemption after sale. (See *Book of Forms*.)

**Quebec.**—Mortgages here are called hypothecs. They can exist only on immovables, and give the creditor a lien and preference over ordinary creditors. Hypothecs are either legal, that is, created by law; judicial, resulting from a judgment, or a bond given to the court as security for the due performance of some obligation; or conventional. The two latter have no effect unless they be registered in the registry office for the division in which the immovable is situated. (See *Book of Forms*.)

## PARTNERSHIPS

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### LIMITED PARTNERSHIPS AND PARTNERSHIP ASSOCIATIONS

**Alabama.**—Limited partnerships may be formed for the transaction of any mercantile, mechanical, manufacturing, or other lawful business in this state. Such partnerships may consist of one or more general partners, and of one or more persons, who contribute, in cash payments, a specific sum as capital to the common stock, who are called special partners. General partners alone manage the business, sign for the partnership, and bind the same. The terms of the partnership must be published for 6 successive weeks. Dissolution of the partnership must be advertised for 3 weeks before it takes place.

**Arizona.**—A partnership doing business in this territory under a fictitious name or a designation not showing the name of the partners, must file with the county recorder a certificate, stating the names in full of all their members, and their place of business.

**California.**—A limited or special partnership may be formed by two or more persons for the transaction of any business except banking or insurance. It may consist of one or more general partners, and one or more special partners. A certificate must be signed showing the nature of the business, which are general and which are special partners, and the amount of capital stock each has contributed. The certificate must be acknowledged as in case of a deed, and must be filed in the clerk's office, and recorded in the county recorder's office. An affidavit must be filed in the same office with the original certificate, stating the sum contributed. The certificate must be published in a newspaper once a week for 4 weeks.

**Colorado.**—A limited partnership may consist of one or more general partners, and one or more contributing a specified amount of capital in cash or other property at cash value, who shall be special partners. General partners only may transact the business, sign the partnership name, and bind the firm. The parties must sign a certificate containing the firm name, nature of the business, names of the general and the special partners, with their places of residence and places of business, the amount of capital stock, and the period when the partnership is to commence and end. The certificate shall be filed



with the county clerk. Partners shall publish the terms of the partnership 4 weeks in a newspaper of the county where the business is carried on. Such a partnership may be dissolved by operation of law, or by 4 weeks' notice in a newspaper.

**Connecticut.**—Provision is made by statute for limited partnerships, but they are not common.

**District of Columbia.**—Limited partnerships are provided for, whereby special partners not exceeding six shall not be liable beyond the fund contributed by them, provided a certificate setting forth the general business, the names and the residences of the general and the special partners, the amount of capital contributed by each, and the time when the partnership shall begin and end, be acknowledged before a notary or a judge of any court in the district, and filed with the clerk of the supreme court of the district. An affidavit of the general partners is required to the effect that the sums contributed by the special partners have actually been paid.

**Florida.**—The former law allowing the organization of limited partnerships has been repealed.

**Illinois.**—A limited partnership may consist of one or more general partners, and of one or more persons who shall contribute a specific amount of capital in cash, or other property at cash value, called special partners. The certificate of the formation of the partnership must be acknowledged, filed, and recorded in the office of the county clerk of the county in which the principal place of business of the partnership is situated. The business of the partnership is required to be conducted under a firm name, in which the names of the general partners only appear. In case of the insolvency of the partnership, the preference of any creditor is forbidden. No part of the capital contributed by a special partner can be withdrawn during the continuance of the partnership.

**Indiana.**—Limited partnerships are formed by the parties signing a certificate giving the name under which the partnership is to be conducted, and the names and places of residence of the general and special partners, the amount of capital stock which each partner has contributed, the general nature of the business, and the time of the commencement and termination of the partnership. The certificate must be acknowledged before a justice of the peace, and recorded in the county where the business is to be conducted, and notice given by 6 successive weeks' publication in a newspaper.

**Iowa.**—Limited partnerships may be formed by two or more persons for the transaction of any lawful business. They may consist of one or more persons who shall be responsible as general partners, and one or more who shall contribute in actual cash a specified sum as

capital. All of the partners must acknowledge and file in the office of the clerk of the district court a certificate giving the name of the firm, the nature of its business, the names of all partners, distinguishing which are general and which are special partners, and their respective places of residence, the amount of capital contributed by each special partner, and stating when the partnership shall commence and terminate. There shall also be attached to and filed with said certificate an affidavit of one or more of the general partners stating that the sums specified in the certificate to have been contributed by each of the special partners have been actually and in good faith paid in in cash. There shall also be published a notice containing the above fact. Every alteration in the names of partners, the nature of business, or the capital or shares, dissolves the partnership.

**Kansas.**—A limited partnership may be formed for the transaction of any mercantile, mechanical, or manufacturing business in this state, between two or more persons, one or more of whom must be general partners, and the rest of the persons contributing a certain amount of capital are liable for the partnership debts only to the amount of their respective capital.

**Kentucky.**—Limited partnerships are authorized by statute, but are rarely used.

**Louisiana.**—Partnerships are either commercial or ordinary. Commercial partnerships are governed by the general law of partnerships, and each partner is liable for the total debt of the firm. In an ordinary partnership, no one of the partners can bind the others, unless he have been given special authority therefor; and each partner is liable only for his share of the partnership debt, calculating such share in proportion to the number of partners, without any regard to the proportion of the stock or profits each is entitled to.

**Maine.**—Limited partnerships are but little used. A certificate of the facts concerning its organization must be recorded in the registry of deeds, and published in a newspaper of the county where the business is to be carried on.

**Maryland.**—Special or limited partnerships can be formed under which the special partners are liable only to the extent of the capital invested in the partnership, unless they fail to comply with the provisions of the code.

**Massachusetts.**—Limited partnerships are authorized to consist of one or more persons, called general partners, to be jointly and severally liable for all debts of the partnership, and of one or more persons who shall each contribute to the common stock, in actual cash payment, a specific sum, as capital, to be called special partners, liable only as provided in the statutes.



**Michigan.**—Limited partnerships may be formed for the transaction of any mercantile, mechanical, or manufacturing business, but not for the business of banking or insurance. The amount of capital contributed by the special partners must be stated in the articles of copartnership. A special partner may contribute his capital in cash or other property at cash value. A certificate signed and acknowledged by all the partners showing the firm name, the nature of the business, the names and designations of the general and special partners and their places of residence, the capital contributed by the special partners, and the commencement and termination of the partnership must be recorded in each county in which the partnership has a place of business. Publication of the terms of the partnership must be made for 6 weeks in two newspapers. Partnership associations may be formed for the transaction of any lawful business by three or more persons, and their liability limited to the amount of their subscription to the capital. The word *limited* must be the last word of the name of the association and must be always used. An omission to use it makes all members "liable for any indebtedness, damage, or liability arising therefrom."

**Minnesota.**—Limited partnerships may be formed for the transaction of mercantile, mechanical, or manufacturing business, but not for banking or insurance. A certificate stating the firm name, the nature of the business, the names of all partners, the amount of capital put in by each special partner, and the time when the partnership begins and ends, duly acknowledged by each partner, must be filed in the office of the register of deeds in the county where the business is carried on, and published 6 weeks in a newspaper. A limited partner must put in cash and is liable only for money put in, but he must not transact business for the partnership.

**Mississippi.**—Limited partnerships are provided for, but are uncommon. The articles of partnership must be recorded.

**Nebraska.**—All partnerships are required to record in the office of the county clerk of the county where the place of business is located, a certificate signed by each member of the partnership, showing the firm name, the general nature of the business, the principal place of business, and the full name and residence of each individual member. Neglect or refusal to comply with the requirements of the statutes for 20 days renders the partnership liable to a fine not to exceed \$1,000, but does not affect the legality of the business transacted. The partners may then sue and be sued in the firm name, and it is not necessary to set forth in pleading or prove at the trial the names of the persons composing the firm. Limited partnerships may be formed under the provisions of the general statute, but are seldom organized. The certificate of formation must be acknowledged and filed for record

in the office of the clerk of every county where such partnership shall have a place of business. They may be formed for the transaction of any mercantile, mechanical, or manufacturing business within the state by two or more persons.

**New Hampshire.**—Limited partnerships may be formed containing one or more general partners, and one or more who contribute a specified sum in actual cash, the latter not to be responsible for the debts of the firm. A certificate must be signed, acknowledged, recorded, and published as directed by statute.

**New Jersey.**—Limited partnerships can only be formed by filing in the office of the county clerk a certificate signed by all the partners, containing the name of the firm, the kind of business, the names of the general and of the special partners, the amount of capital contributed by each, and the time of beginning and ending, accompanied by the affidavit of one of the general partners that the sums contributed by the special partners have been actually paid in. Special partners may contribute property instead of money. The certificate must be acknowledged the same as a deed of land.

**New York.**—Partnerships are regulated by the statute of 1897 and may be formed by any two or more persons for the transaction of any legitimate business. The use of the names of persons in the firm name, who are not partners, and the use of *and Company* or *& Co.*, without representing an actual partner, is prohibited and is a misdemeanor. Where a partnership, which has transacted business in the state for 3 years, continues to be conducted by some of the same partners, or their assignees or appointees, or where a majority of the members of a discontinued or discontinuing partnership are members of a new one, or consent to the use of the name of the old firm, or where a resident dies, who had for 5 years carried on business in his sole name, having relations with other states or foreign countries, the use of the old name may be continued, in any such case, upon filing and publishing a certificate showing the names and residences of the members of the new firm. Limited or special partnerships may be formed by any two or more persons for the transaction of any lawful business, except banking and insurance. At least one general and one special partner must be of full age. The capital contributed by the special partners, the names of the general and the special partners, the firm name, the general nature of the business intended to be transacted, and the periods at which the partnership is to commence and terminate, must all be incorporated in a certificate which must be acknowledged, filed, and recorded in the office of the clerk of the county where the principal place of business of the partnership is to be. An affidavit of a general partner must at the same time be filed, stating that the contributions of the special partners have been actually



and in good faith paid in in cash. The terms of the partnership must be published in two newspapers for 6 weeks.

**North Carolina.**—Limited partnerships may be formed for the transaction of any mercantile, manufacturing, or mechanical business by acknowledging and registering a certificate, setting forth the name of the firm, the general nature of the business, the names of the general and the special partners, and the period at which such partnership is to commence and terminate. The terms of the partnership may be published immediately after its formation for 6 successive weeks.

**North Dakota.**—A partnership doing business under a fictitious name or designation, not showing the names of the persons interested, must file with the clerk of the district court a certificate stating the names in full of all the members of such partnership and their places of residence, and publish the same once a week for 4 weeks. Persons doing business as partners without complying with such provisions shall not maintain any action on or on account of any contract made or transaction had in their partnership name in any court of this state; provided, however, that if such partners shall at any time comply with such provisions, then such partnership shall have the right to maintain an action on all such partnership contracts and transactions entered into prior as well as after such compliance, and the disabilities heretofore imposed on partnerships for a failure to comply therewith are removed; provided, further, that a commercial or banking partnership established and transacting business in a place without the United States, may, without filing these certificates or making the publication above prescribed, use in this state the partnership name used by it there, although it be fictitious.

**Ohio.**—Partnership associations may be formed by any number of persons, not less than three nor more than twenty-five, for the purpose of conducting any lawful business or occupation, except for dealing in real estate or banking, within the United States or elsewhere, whose principal office shall be in this state. The liability of an individual member is limited to the amount of his subscription to the capital stock of the association. The word *limited* must be the last word of the name of every such partnership association, and must always be used whenever the association name is used. Omitting to use such word renders any member of such association who knowingly acquiesces in such omission responsible for any debt or liability arising on account thereof. Every such association shall keep a register of its debts and liabilities, which shall be open to the inspection of all persons interested in any manner in the business or the financial standing of such association, during business hours; and in case of any neglect or failure to enter on such register any debt within 10 hours

after it is contracted, or if false entries be made therein, the members of the association become individually responsible, for the debts contracted during such neglect or failure, to those damnified thereby. A limited partnership for the transaction of mercantile, mechanical, manufacturing, or mining business may consist of one or more persons who shall be called general partners, and one or more persons who shall contribute in actual cash a specific sum as capital to the common stock, who shall be called special partners. Every alteration in the name of the partnership or its business shall be deemed a dissolution, and, if the partnership be continued after such alteration, it is deemed a general partnership, unless renewed as a special partnership under the statute. Every such partnership must display, in a conspicuous place in front of its place of business, the names of its general partners in full. A special partner shall not transact the partnership business, and shall not act as agent, attorney, or otherwise for the firm, unless he be specially authorized to do so and disclose his agency. If he do so act without authority, or without disclosing his agency, he shall be deemed a general partner. Every partnership transacting business in this state, under a name that does not show the names of all the persons interested as partners in the business, except commercial or banking partnerships established and transacting business without the United States, must file with the clerk of the court of common pleas of the county in which its principal office or place of business is situated, a certificate to be indexed by said clerk, stating the names in full of all the members of such partnership and their places of residence.

**Pennsylvania.**—Partnership associations or joint-stock companies, may be formed for the transaction of any lawful business by three or more persons, for a period of 20 years, and the liability of the partners is limited to the amount of their subscription to the capital. The word *limited* must be the last word of the name of the association. An omission to use it makes all members acquiescing in such omission "liable for any indebtedness, damage, or liability arising therefrom." The limited liability of the members of the association is secured only by a strict compliance with the law. All the partners must sign and acknowledge a statement of facts of the organization, and this must be recorded in the proper county. Limited partnerships may be formed for the transaction of any agricultural, mercantile, mechanical, mining, or manufacturing business, or for the transportation of coal, but not for the business of banking or insurance. A special partner may contribute merchandise, properly appraised, on account of his capital. A certificate, signed and acknowledged by all the partners, must be recorded, showing the firm name, the nature of the business, the names and designations of the general and the special partners and their places of residence, the capital contributed by the special



partners, and the commencement and termination of the term of the partnership. The terms of partnership must be published for 6 weeks in two newspapers of the county. The names of all the partners must be conspicuously displayed at the place of business. Limited partnerships of another class are authorized by the Act of May 9, 1899. By this act two or more persons may associate themselves in partnership for the purpose of conducting any kind of business except the construction and operation of electric light and power companies, artificial or natural gas companies, water companies, railroads, and street passenger railway, or traction companies, and may limit the responsibility of the prospective partners for the debts of the partnership to the amount of the capital subscribed by such partner or partners, respectively. The articles of copartnership must recite the name of the partnership, and the names of the partners, one or more, or all, whose liability is to be limited to the amount subscribed by each to the capital. The articles must be acknowledged, and recorded in the office of the recorder of deeds, a copy must be filed in the office of the secretary of the commonwealth, and notice of the formation of the partnership must be published for 3 weeks. The requirements of the statute being complied with, no member whose liability is intended to be limited shall be liable for partnership debts, saving to the extent of the amount of his or her subscription with interest on unpaid subscriptions. Such a limited partner may transact business with or for the partnership. A list of the partners must be posted in the place of business of the partnership, and in the case of any partner or partners whose liability is limited the words *limited liability* must be added to his name. If any partner whose liability is limited shall obtain credit by a false statement to the effect that he is a general partner, such act shall constitute a misdemeanor and subject him to a fine. The partnership may hold and convey real estate, by one or more partners, in the partnership's name, if the by-laws shall so provide. It may sue and be sued in the partnership's name and not by the individual names of the partners.

**Rhode Island.**—Limited partnerships may be formed for mercantile, mechanical, or manufacturing business, consisting of general and special partners, the latter not to be personally liable for the debts except in cases specified. Such partnership cannot transact insurance, nor become banks of issue and circulation.

**South Carolina.**—Limited partnerships may be formed for the transaction of any agricultural, mercantile, mechanical, mining, or manufacturing business, or for the transportation of coal, but not for the business of banking or insurance. The amount of capital contributed by the special partners must be stated in the articles of copartnership, and must be contributed in cash. A certificate signed and acknowledged by all the partners must be recorded, showing the firm

name, the nature of the business, the names and designations of the general and the special partners and their places of residence, the capital contributed by the special partners, and the commencement and termination of the partnership.

**Tennessee.**—A limited partnership may be formed by two or more persons for the transaction of any mercantile, mechanical, manufacturing, agricultural, or mining business in this state; but not for carrying on the business of banking or insurance. The articles of copartnership containing the usual statements must be acknowledged by each partner and registered in every county where the firm has a place of business. The terms of the partnership must be published for 6 weeks, immediately after registration, in a newspaper to be designated by the register. At the time of filing the original articles for registration, a general partner must file in the same office an affidavit stating that the sums specified in the articles to have been contributed by each partner to the common stock were actually and in good faith contributed and in cash.

**Texas.**—Limited partnerships may be formed by two or more persons for the transaction of any mercantile, manufacturing, or other lawful business, except banking and insurance. They may consist of one or more general partners, and of one or more special partners, who shall contribute in actual cash payments a specific sum. The formalities required by law as to certificates, affidavits, and publication in a newspaper must be strictly complied with.

**Utah.**—Limited partnerships may be formed for the transaction of any mercantile, mechanical, mining, or manufacturing business, but not for the business of banking and insurance. The amount of capital contributed by the special partners must be stated in the articles of copartnership. A special partner may contribute merchandise, properly appraised, on account of his capital. A certificate, signed and acknowledged by all the partners, must be recorded.

**Virginia.**—Partnership associations may be formed by three or more persons, in which case only the capital subscribed shall be liable for the obligations of the company, provided the terms of the statute as to publication and other formalities be strictly complied with. The word *limited* must always appear as the last word of the firm name. A limited partnership, except for banking, brokerage, or insurance, may consist of one or more general partners, and one or more special partners, who contribute to the common stock a specified sum in actual cash. A paper containing the name and residence of each partner, the firm name, stating which are general and which special partners, the sum contributed by each special partner, the general nature of the business, the place or places of business, and the duration of the partnership must be severally signed by all the partners. One or more of



the general partners must also make an affidavit that each sum so stated has been actually paid in in cash. This paper must then be recorded in the clerk's office of the county or corporation of each of the said places of business, and a certified copy thereof must also be published once a week for 4 successive weeks in a newspaper printed in every such county or corporation. The names of the special partners must not appear in the firm name, nor shall the word *company* or any other general term except *limited* be used.

**West Virginia.**—Limited partnerships may be formed in the usual manner with special liability upon the special partners, for any lawful business except banking, brokerage, or insurance.

**Wisconsin.**—Limited partnerships may be formed for the transaction of any mercantile, mechanical, or manufacturing business, between one or more general partners, and one or more special partners. Full payment in cash of the whole special capital into the firm's funds, strict compliance with all the statutory formalities, and entire non-participation in the conduct of the firm's business are essential to the protection of the special partner from general liability. The name of the special partner must be prominently advertised at the place of business.

**Wyoming.**—Limited partnerships may be formed by all the partners signing and acknowledging a certificate containing the usual statements, which certificate must be recorded.

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#### PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—Limited partnerships may be formed for any trading, mining, or manufacturing business within the province, by registering a certificate and publishing notice thereof. General partnerships must also be registered and a certificate filed on their formation, dissolution, or any change in the firm name; partners may then sue and defend in the firm name.

**Ontario.**—All partnerships for trading, mining, or manufacturing purposes must register in the county registry office a declaration setting forth in full the names, occupations, and residences of the partners, the business to be carried on, and the period for which it is to exist.

**Quebec.**—All partnerships must be registered in the office of the county register and prothonotary of the superior court. Limited partnerships may be formed by registering a declaration setting forth the name of the firm, the nature of the business, the names of both general and special partners and their residences, the amounts contributed by each special partner, and the period during which the partnership is to exist.

## WILLS

Unless otherwise mentioned, the age required of a testator is 21 years. The will must be signed by the testator or by some one in his presence and upon his directions, and in Arkansas, California, Indian Territory, Kansas, Kentucky, Minnesota, Montana, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Utah, the signing must be at the end. Holographic wills, allowed in some states, do not require witnesses. Frequently it is provided that a devise or bequest to a witness is void unless there be the requisite number of competent witnesses besides, or unless such devisee or legatee were entitled to share in the estate according to the intestate laws. A will made out of the state where it is offered for probate is usually valid if executed according to the laws of the state where made; but some states, as California, Georgia, Kentucky, Missouri, New Jersey, North Carolina, Oregon, Rhode Island, South Carolina, Tennessee, and Utah, require that the will, to pass property within the state, must be executed according to the laws of that state; in Georgia, Kentucky, Missouri, North Carolina, and Oregon, this provision applies to realty only.

**Alabama.**—A person over 18 years of age may make a will disposing of personal property. Two subscribing witnesses are required. An unwritten will of personal property is valid only when the property does not exceed \$500 in value, and must be made during the testator's last illness and at his home. The persons present must be called on to witness that it is the testator's will, and it must be reduced to writing by one of the witnesses within 6 days thereafter.

**Alaska.**—Every person 21 years of age and upwards, of sound mind, may by last will devise all his or her property, real or personal, saving in the case of a married man to the widow her dower, and saving in the case of a married woman any rights which her husband may have as tenant by the curtesy. A will must be in writing, signed by the testator or some other person under his direction in his presence, and shall be attested by two or more competent witnesses.

**Arizona.**—Every person, although a minor, who has been lawfully married, being of sound mind, has power to make a will. Every will, except holographs, must be attested by two or more credible witnesses above the age of 14, in the presence of each other and the testator. A nuncupative will disposing of any amount of property is good if it be proved by three credible witnesses that the testator called on some person to take notice and bear testimony that such is his will, and that



the testimony or the substance thereof was reduced to writing within 6 days thereafter. Such wills must be proved within 6 months.

**Arkansas.**—Every person may dispose of goods and chattels by will at the age of 18. Women 18 years of age or married may by will dispose of all their property. Every will, except holographs, must be signed at the end by two attesting witnesses, and at the time of the signing or acknowledging the testator must declare the instrument to be his will. Holographs may be proved by three witnesses familiar with the handwriting; but such a will cannot be pleaded in bar of an attested will. If the testator fail to mention in his will any child, or the legal representative of such child, living at the time of executing the will, he shall as to such child be deemed to have died intestate. Nuncupative wills properly proved are good only for property of the value of \$500.

**California.**—Every person over 18 years of age is qualified to make a will. Wills must be subscribed at the end by two attesting witnesses in the presence of the testator and of each other. A holographic will need not be witnessed. All devises or bequests to a subscribing witness are void unless there be two other subscribing witnesses. No will made out of this state is valid in this state, unless executed according to the provisions of the code. Nuncupative wills are valid when made by a person in expectation of immediate death from an injury received the same day.

**Colorado.**—Every person over the age of 17 may dispose of personalty by will; as to realty, the testator, if a female, must be 18, if a male, 21. Wills must be attested by two credible witnesses. Nuncupative wills may dispose of personalty if made in the presence of two credible witnesses, and by them reduced to writing within a reasonable time afterwards.

**Connecticut.**—All persons of 18 years of age may dispose of their property by will. There must be three witnesses signing in the presence of the testator. Any gift to a subscribing witness, or the husband or the wife of such witness, is void, unless the beneficiary be an heir of the testator, or the will be otherwise legally attested.

**Delaware.**—There must be two subscribing witnesses. Nuncupative wills are good where the amount disposed of does not exceed \$200. Such wills must be made during the last illness of the testator, in the presence of two or more credible witnesses, and be reduced to writing and attested by said witnesses within 3 days after.

**District of Columbia.**—Males must be 21 years and females 18 years of age to be qualified to make wills, which must be in writing and signed by the testator, or by some other person in his presence and by his express direction, and attested and subscribed in the testator's presence by at least two witnesses.

**Florida.**—Two subscribing witnesses are required for wills disposing of realty. Nuncupative wills are good as to personal property if made during the testator's last illness, in the presence of three witnesses, some of whom were requested by the testator to bear witness to the fact of its being his will. When 6 months have passed after the speaking of said testamentary words, no testimony shall be received to prove any nuncupative will, unless the said testimony, or the substance thereof, were reduced to writing within 6 days from the making of said will, and were sworn to before some judicial official of this state within the said 6 days.

**Georgia.**—Wills must be attested by three or more competent subscribing witnesses. Foreign wills disposing of realty in this state must be executed in conformity with the laws of this state, but those disposing of personalty are good if executed according to the laws of the place where the testator resided at the time of his death. A will devising or bequeathing property for any religious or charitable use must be executed at least 90 days before death. Nuncupative wills are valid only when made in the presence of three witnesses, and must be reduced to writing within 30 days; and application must be made to probate the same within 6 months after the death of the testator.

**Idaho.**—Every person above the age of 18 may make a will. Wills must be attested by two witnesses who must sign at the request of the testator. Holographic wills need not be attested.

**Illinois.**—Males at 21 and females above 18 years of age are qualified to make wills. There must be two subscribing witnesses. If a witness have removed to parts unknown, be insane, or have died, his handwriting may be proved. Probating a will is not conclusive, but a bill in chancery may be filed within 2 years to set it aside. A nuncupative will is good if reduced to writing within 20 days after the making thereof, and within 10 days from the testator's death. It requires two witnesses who heard the testator pronounce the words, and two others who must testify that the will was written within said 10 days. No letters on such wills will be granted until after 60 days from the testator's death.

**Indian Territory.**—A person, to dispose of both real and personal property by will, must be 21 years of age and upwards; a person over 18 years of age is qualified to dispose of goods and chattels by will. Two attesting witnesses are required, who subscribe their names at the end of the will. Nuncupative wills, properly proven, are good as to property valued at \$500.

**Indiana.**—A will must be attested by two subscribing witnesses. Nuncupative wills, where property of more than the value of \$100 is bequeathed, are not valid, except as to personal property and the



wages of soldiers and sailors in actual service. A nuncupative will must be reduced to writing within 15 days after it shall have been declared, and must be proved by two competent witnesses who shall have heard the testator request some of those present to bear witness thereto. .

**Iowa.**—Any person of full age and sound mind may dispose by will of all his property, except what is sufficient to pay his debts, or what is allowed as a homestead, or otherwise given by law as privileged property to his wife or family. Property to be subsequently acquired may also be devised, when the intention is clear and explicit. Personal property to the value of \$300 may be bequeathed by a verbal will, if witnessed by two competent witnesses. A soldier in actual service, or a mariner at sea, may dispose of all his personal estate by will so made and witnessed; all other wills to be valid must be in writing, witnessed by two competent witnesses, and signed by the testator, or by some person in his presence and by his express direction. No subscribing witness to a will can derive any benefit therefrom unless there be two disinterested and competent witnesses to the same. Wills, foreign or domestic, must be probated before they can be carried into effect. If valid where made, they are valid in this state. If probated in any other state or country, they shall be admitted to probate in this state on the production of a copy of such will and of the original record of probate thereof, authenticated by the attestation of the clerk of the court in which such probate was made; or if there be no such clerk, by the attestation of the judge thereof, and by the seal of office of such officers, if they have a seal.

**Kansas.**—The testator must sign at the end of the will, which must be attested by two subscribing witnesses. Every will after probate is subject to contest by action in the district court within 2 years. A verbal will made in the last sickness is valid as to personal estate, if reduced to writing and subscribed by two competent disinterested witnesses within 10 days after the speaking of the testamentary words, and if it be proved by said witnesses that the testator was of sound mind and memory, and not under any restraint, and called upon some one present at the time the words were spoken to bear testimony to such disposition as his will.

**Kentucky.**—Persons over 21 years of age may make wills. Except as to holographic wills, there must be two credible subscribing witnesses. If a foreign will be executed according to the laws of the testator's domicile, such a will is good as a will of personalty, but it is not good as a will of realty unless executed according to the laws of Kentucky.

**Louisiana.**—Wills are nuncupative, mystic, or sealed, and holographic. Nuncupative wills by public act and mystic wills are executed

before notaries and witnesses, and the forms prescribed are sacramental and must be observed under pain of nullity. A nuncupative will by private act is subject to very slight formalities, and it may be proved by evidence outside the instrument. For the holographic will no form is required, other than that it be entirely written, dated, and signed by the testator. All persons above 16 years of age and of sound mind can make valid testaments.

**Maine.**—A person of age, of sound mind, may make a will which must be in writing and signed by the person making it, in the presence of three witnesses not beneficially interested under it. A widow may, within 6 months after probate, or the appointment of commissioners on the estate, if insolvent, waive provision made for her in will, and take what she would have been entitled to had the husband died intestate. Nuncupative wills are good in some cases. Copies of wills, proved in any other state or country, may be registered here, if duly authenticated, and letters testamentary will be granted thereon.

**Maryland.**—Males may make a will of personalty after 14 years of age, of realty after 21 years of age; females, 12 years of age for personalty, 18 years of age for realty. A will or testamentary instrument is good in Maryland, if made according to the form required by the law of this state. If the testator were originally domiciled in Maryland, although at the time of making his will, or at the time of his death, domiciled elsewhere, said will shall be admitted to probate in any orphans' court in this state, and shall be governed and construed according to the laws of Maryland, unless the testator shall declare a contrary intention in said will. No testamentary paper is subject to caveat or other objection to its validity, after the expiration of 3 years from the probate. No nuncupative will shall hereafter be valid in this state; but any soldier being in actual military service, or any mariner at sea, may dispose of his movables, wages, and personal estate as heretofore.

**Massachusetts.**—A will must be attested and subscribed in the testator's presence by at least three competent witnesses. A beneficiary under a will, or the husband or the wife of such beneficiary, is not a competent witness. The surviving husband or the widow of a deceased person, at any time within 1 year after the probate of the will of such deceased, may file in the registry of probate a writing signed by him or by her, waiving any provisions that may have been made in it for him or for her or claiming such portion of the estate of the deceased as he or she would have taken if the deceased had died intestate, and he or she shall thereunder take the same portion of the property of the deceased, real and personal, that he or she would have taken if the deceased had died intestate; except that if he or she would thus take real and personal property to an amount exceeding \$10,000



in value, he or she shall receive in addition to that amount only the income during his or her life of the excess of his or her share of such estate above that amount, the personal property to be held in trust and the real property vested in him or her for life, from the death of the deceased; and except that if the deceased leaves no kindred, he or she upon such waiver shall take the interest he or she would have taken if the deceased had died leaving kindred but no issue. If the real and personal property of the deceased which the surviving husband or widow takes under the foregoing provisions exceeds \$10,000 in value, the \$10,000 above given absolutely shall be paid out of that part of the personal property in which the husband or widow is interested; and if such part is insufficient the deficiency shall, upon the petition of any person interested, be paid from the sale or mortgage in fee, in the manner provided for the payment of debts or legacies of that part of the real property in which he or she is interested. Such sale or mortgage may be made either before or after such part is set off from the other real property of the deceased for the life of the husband or widow. If, after probate of such will, legal proceedings have been instituted wherein its validity or effect is drawn in question, the probate court may, within the said 1 year, on petition and after such notice as it may order, extend the time for filing the aforesaid claim and waiver until the expiration of 6 months from the termination of such legal proceedings. When a testator omits to provide in a will for a child, or issue of a deceased child, they take the same share they would have been entitled to if he had died intestate, unless they have been provided for by the testator in his lifetime, or unless it appear that the omission was intentional and not occasioned by accident or mistake. A soldier in actual military service or a mariner at sea may dispose of his personal estate by a nuncupative will.

**Michigan.**—There must be two subscribing witnesses. Where the testator fails to provide for any child or the issue of any child, unless it shall appear that such omission were intentional, he will be considered to have died intestate as to such child. A devise or a legacy to any child or relation of the testator shall go to the issue of such legatee or devisee, who shall die before the testator leaving issue, unless a different disposition shall be directed by the will. Wills must be presented to the probate court within 30 days after the testator's death.

**Minnesota.**—A person of full age may make a will. There must be two or more subscribing witnesses. Devises and bequests to subscribing witnesses are void, unless there be two other such competent witnesses. Soldiers may make nuncupative wills.

**Mississippi.**—If the will be holographic, no witnesses are required; otherwise, it must be attested by two subscribing witnesses who act as such at the request of the testator. The statutes of mortmain are in

force. A will may be probated in common or solemn form; if in common form, it may be contested within 2 years; if in solemn form, on summoning all parties in interest, the probate is final. Nuncupative wills must be made during the last sickness of the deceased at his home, or where he has resided for 10 days previous to his death (except when taken sick while absent from home and shall die on his return). If the value of the property exceed \$100, the will must be proved by two witnesses, who must show that they were called on to take notice or bear testimony to the will; only personal property can be disposed of in this way. Such wills cannot be proved after 6 months from the time of being made, unless the words or the substance thereof shall be reduced to writing within 6 days after speaking the same.

**Missouri.**—Every male over 18 years of age may dispose of personalty by will, or if over 21 years of age, his realty; every female over 18 may dispose of both real and personal estate. There must be two subscribing witnesses. A legacy to an attesting witness is void unless the will be attested by a sufficient number of other competent witnesses. The testator is deemed to die intestate as to children not named or provided for in the will. When an estate is devised to a child, grandchild, or descendant of such testator, and such devisee shall die before the testator, leaving lineal descendants, such descendants shall take the estate, as such devisee would have done had he survived the testator. Any person interested may, within 5 years after the probate or rejection thereof, file his petition to contest the will or set aside its rejection. To pass realty in this state, the will must be executed according to the laws of the country where made.

**Montana.**—Every person above 18 years of age may make a will. Except as to holographic wills, there must be two subscribing witnesses. A will bequeathing property to a benevolent or charitable society or association must be executed at least 30 days prior to the death of the testator. The estate bequeathed by a nuncupative will must not exceed \$1,000 in value, the will must be proved by two witnesses, must have been made in actual fear of death, and must be probated within 6 months after stating the testamentary words, unless the substance thereof were reduced to writing within 30 days after they were spoken.

**Nebraska.**—The will must be attested by two witnesses who subscribe the same at the testator's request. All women of 16 years of age, if married, may make a will, or, if unmarried, of 18 years of age. Nuncupative wills are valid when proved by the oath of three witnesses present at the making thereof, and when the testator at the time asked the persons to bear witness that such was his last will.

**Nevada.**—Every person over 18 is qualified to make a will. With the consent of the husband in writing annexed to the will, the wife



may by will dispose of her interest in the common property. There must be two subscribing witnesses. Nuncupative wills are valid only for a less sum than \$1,000 and must be proved by two witnesses within 3 months after the testamentary words were spoken.

**New Hampshire.**—Wills must be attested and subscribed by three or more credible witnesses. Wills may be proved in the common form by one attesting witness. Any party interested may have a will so proved reexamined within 1 year, and persons under disability, 1 year after such disability is removed. A devise to a subscribing witness is void unless there be three other witnesses. As to every child or grandchild not mentioned in the will, the testator will be considered to have died intestate.

**New Jersey.**—Every will must be in writing, signed, sealed, published, and declared as his last will and testament by the testator, in the presence of two witnesses, who must sign the same in his presence and in the presence of each other and at his request. Wills may be proved before the ordinary or before the surrogate of the county in which the testator died, but in case doubts arise on the face of the will or a caveat is put in against proving it, or a dispute arises respecting its existence, the surrogate cannot act, but must issue a citation to all interested parties to appear before the orphans' court, which court, in that case, may hear and determine the matters in controversy. Wills are admitted to probate after 10 days from the death of the testator. A will attested by a devisee, legatee, or executor may be proven by him, but he can take nothing by virtue of the will. Foreign wills devising real estate must be executed and proved according to the laws of this state, and a legally exemplified copy filed in the office of the surrogate of the county in which the land lies.

**New Mexico.**—A person of sound mind, of the age of 21 years or upwards, may dispose of his property by will. Two witnesses are required, who must see the testator sign the will, or some one sign it for him at his request, and they must sign as witnesses at his request and in his presence and in the presence of each other. A will executed in a foreign jurisdiction, sufficient to convey real estate in such jurisdiction, is valid here. A witness cannot be a beneficiary under the will. Nuncupative wills also are recognized. Posthumous children inherit as if no will had been made, unless especially provided for in the will.

**New York.**—Wills of real estate may be made by any one who is of sound mind and 21 years of age; of personal property, by males of 18 years of age, and by females of 16 years of age. Wills must be in writing, signed and acknowledged by the testator in the presence of at least two witnesses, who shall subscribe their names and residences. A devise or bequest to a witness whose testimony is necessary to establish the will is void, unless such witness would share under the

intestate laws. / Wills executed by a person not a resident of the state, in any part of the United States, or in Great Britain and Ireland, or Canada, when executed according to the law of his place of residence, may be proven in New York; otherwise, a foreign will must be executed as required in this state, and recorded in the foreign state. But a will of personal property only, admitted to probate in another state, may, when authenticated as prescribed by the statute, be recorded in this state and ancillary letters will be issued. Within 2 years after the probate of any will, an action may be brought in the supreme court to contest the same by any interested party. Nuncupative wills are valid only when made by a soldier when in actual military service and by a mariner at sea.

**North Carolina.**—There must be two or more subscribing witnesses, except as to holographic wills. No devise or bequest to a subscribing witness, or the wife or husband of any such, is good. Holographic wills may be proved by three witnesses proving the handwriting. Wills made out of the state and devising real property situate within this state must be executed according to the laws of this state. Nuncupative wills, when the estate exceeds \$200, must be made in the presence of at least two credible witnesses, who must state that they were specially required to bear witness thereto. Such a will must have been made in the testator's last sickness, in his own habitation or where he had been previously resident for at least 10 days, unless he died on a journey or from home. They shall not be proved after 6 months from the making, unless reduced to writing within 10 days thereafter.

**North Dakota.**—The testator must sign at the end of the will. Every person over 18 years of age is qualified to make a will. Except as to holographic wills, a will must be attested by two witnesses who subscribe at the end.

**Ohio.**—The will must be written either by hand or typewriter, and signed at the end by the testator, and by two competent attesting witnesses. No devise or legacy to a subscribing witness is good unless the will may be otherwise proved, except the witness be one who would have been entitled to a portion of the estate under the intestate laws. A devise to charitable purposes, where there is any issue of the testator or an adopted child living, is void, unless made 1 year before his death. Any contest of a will must be made within 2 years after the same has been probated except as to infants, or persons absent from the state, or of insane mind, or in captivity, who may have the same period after such disabilities are removed. Verbal wills made in the last sickness shall be valid in respect to personal estate if reduced to writing and subscribed by two competent disinterested witnesses within 10 days after the speaking of the testamentary



words, and offered for probate within 6 months after the death of the testator. Both real and personal estate may thereby be passed.

**Oklahoma.**—Except as to holographic wills, there must be two attesting witnesses, who must subscribe their names. Nuncupative wills are valid only when disposing of property of the value of \$1,000, and must be proved by two witnesses, one of whom was asked by the testator to bear witness.

**Oregon.**—Persons 21 years of age may dispose of real and personal property by will; persons over 18 years of age may dispose of personal property by will. There must be at least two subscribing witnesses. A legatee or devisee is not a competent witness, unless he relinquish all benefits from the will. A will which fails to mention or provide for a living child is inoperative as to such a child.

**Pennsylvania.**—Every person of sound mind and over 21 years of age may make a will. It must be in writing, and unless the person making the same be prevented by the extremity of his last sickness, must be signed by him at the end thereof, or by some person in his presence and by his express direction. Wills must be proved by two witnesses, but they need not be subscribing witnesses, and no acknowledgment by the testator before them is necessary, except in case of a devise or bequest to a charitable or religious use, when the will must be attested by two credible and disinterested witnesses, and executed at least 1 calendar month before the death of the testator. A widow can elect, against her husband's will, to take the same interest in his estate as she would have taken had he died intestate. So, a surviving husband may elect, against his wife's will, to take the same interest in her estate as she would have taken in his had she survived; or he may take as tenant by the curtesy. A devise or a legacy in favor of a child or other lineal descendant, or in favor of a brother or sister, or the children of a deceased brother or sister, when such testator leaves no lineal descendants, shall not be deemed to lapse or become void by reason of the decease of such devisee or legatee in the lifetime of the testator, if such devisee or legatee shall leave issue surviving the testator, unless otherwise directed by the testator. Every will shall be construed to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will. Copies of wills duly proved in any other state or country may be registered here, if duly authenticated, and letters testamentary or of administration will be granted thereon. The decision to probate or refuse probate of a will devising real estate by the register of wills of the proper county, is conclusive as to the title to such real estate, unless within 3 years from the date of such action by the register steps be taken to contest his decision. Personal estate may be bequeathed by a nuncupative will under the following

restrictions: It must be made during the last illness of the testator in his dwelling or where he has resided for the space of 10 days or more before the making of the will, except where the testator is surprised by sickness, being from his own house, and shall die before returning thereto; where the sum bequeathed exceeds \$100, it shall be proved that the testator, at the time of pronouncing the bequest, did bid the persons present, or some of them, to bear witness that such was his will; the foregoing requisites must be proved by two or more witnesses who were present. Any mariner or soldier being in actual military service may dispose of his movables, wages, and personal estate by nuncupative will notwithstanding the aforesaid requirements. No nuncupative will may be admitted to probate till 14 days after the death of the testator; nor may such be proved after 6 months from the speaking of such words unless the testimony were reduced to writing within 6 days thereafter.

**Rhode Island.**—Every person above 18 years of age may make a will disposing of personal property; a person of 21 years of age may dispose of real and personal property by will. The will must be signed by the testator in the presence of at least two witnesses, who must sign in the presence of the testator and of each other, and to whom he must declare the instrument to be his last will. Foreign wills, if executed in accordance with the law of this state, may convey property within this state, on being recorded in the probate court of the town where the property is situated.

**South Carolina.**—A person of 21 years of age may dispose of real and personal property by will; as to personal property, persons under 21 may make wills. A will must be signed in the presence of three witnesses, who must all be present, and at the testator's request see him or her, and each other, sign. Exemplified copies of wills of other states, if they have three witnesses, can be made of force and record in this state.

**South Dakota.**—Every person over the age of 18 years may dispose of his real and personal estate. The testator must sign at the end of the will, and it must be attested by two witnesses who subscribe at the end at the request of the testator. In order to render a nuncupative will valid the estate bequeathed must not exceed in value \$1,000. The will must be proved by two witnesses, and the testator must at the time have been in actual military service in the field, or be on ship-board at sea and in actual, constant fear or peril of death, or must have been at the time in expectation of immediate death from an injury received the same day.

**Tennessee.**—A valid testament of personalty may be made by a male of 14 years of age, or a female of 12. Wills of personalty require no witnesses. As to realty, the testator must be 21 years old, and



return. This does not prevent soldiers or sailors in service from so disposing of their wages or personal effects. Nuncupative wills must be offered for proof within 6 months after speaking the testamentary words.

**West Virginia.**—Minors over 18 years of age may dispose of personalty by will. Except as to holographic wills, there must be two subscribing witnesses. A devise or a legacy to a witness or the husband or the wife of such a witness, unless such a devisee or legatee would share in the estate under the intestate laws, is void, unless the will may be otherwise proved.

**Wisconsin.**—Persons, generally over 21, and married women over 18 years of age are qualified to make wills. Two or more competent witnesses must subscribe in the presence of the testator, and of each other, to all wills, except nuncupative wills. The latter are authorized by statute and must be executed in strict accordance with the terms of the statute.

**Wyoming.**—There must be two competent witnesses to the testator's signing. No witness, unless entitled by the intestate laws to share in the estate, can derive any benefit from the will, unless it be otherwise proved.

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## PROVINCES OF THE DOMINION OF CANADA

**British Columbia.**—There must be two witnesses present at the same time who must subscribe to a will. An executor or a devisee is a competent witness, but a devise to an attesting witness becomes void. A will speaks from the time of the testator's death. Gifts to children or other issue, who have died leaving issue at the testator's death, do not lapse, but descend to such issue.

**Manitoba.**—Except as to holographic wills, there must be two subscribing witnesses. Bequests to a witness, or the wife or the husband of such, are void. No will made outside of this province is valid as a will in Manitoba, unless executed in accordance with the laws of this province.

**New Brunswick.**—Wills must have two subscribing witnesses. A devise or a legacy to a witness, or the husband or the wife of such, is void.

**Nova Scotia.**—Wills must have two subscribing witnesses.

**Ontario.**—Wills must have two subscribing witnesses. A devise or a legacy to a witness, or the husband or the wife of a witness, is invalid. A will is construed as if it had been executed immediately before the death of the testator.

there must be two subscribing witnesses. But a paper in writing, appearing to be the will of a deceased person, written wholly by him, having his name subscribed to it, or inserted in some part of it, and found after his death among his valuable papers, or lodged in the hands of another for safe keeping, shall be good and sufficient to give and convey lands, if the handwriting be generally known by his acquaintances, and be proved by at least three credible witnesses that they verily believe the writing to be in his hand. No nuncupative will shall be good where the estate exceeds \$250, unless proved by two disinterested witnesses present at the making thereof, and it may not be proved until 14 days after the testator's death, nor later than 6 months thereafter, unless put in writing within 10 days.

**Texas.**—Except as to holographs, a will must be attested by two subscribing witnesses above the age of 14. Application for the probate of a will must be made within 4 years from the testator's death.

**Utah.**—Every person over 18 years of age may dispose of his property by will. Except as to holographic wills, a will must be attested by two witnesses who subscribe at the end. Nuncupative wills are valid when the estate bequeathed does not exceed \$1,000, provided they be made within 24 hours before death, and proved within 6 months from such death by two witnesses, one of whom was asked by the testator to bear witness.

**Vermont.**—Every person 18 years of age may make a will. There must be three attesting witnesses, who shall sign in the presence of the testator and of each other.

**Virginia.**—Every person over 18 years of age may dispose of his or her personalty by will. Except as to holographic wills, there must be two subscribing witnesses, but no form of attestation is necessary. A will is construed as if made just before the testator's death, unless a contrary intention appear.

**Washington.**—Persons of full age may make wills; females 18 years of age, or under that age if married, may make a will. A will must be attested by at least two subscribing witnesses. If a testator leave a child or children, or descendants thereof in case of death, not named or provided for in his will, he shall be deemed to die intestate, so far as regards such child or children or the said descendants. No nuncupative will shall be good where the estate exceeds \$200 in value, unless the same be proved by two witnesses who were present at the making thereof, and it be proved that the testator at the time of pronouncing the same did bid some person present to witness that such was his will; that such will was made at the time of his last sickness, and at the dwelling house or residence of the deceased, except where such person was taken sick away from home, and died before his



return. This does not prevent soldiers or sailors in service from so disposing of their wages or personal effects. Nuncupative wills must be offered for proof within 6 months after speaking the testamentary words.

**West Virginia.**—Minors over 18 years of age may dispose of personalty by will. Except as to holographic wills, there must be two subscribing witnesses. A devise or a legacy to a witness or the husband or the wife of such a witness, unless such a devisee or legatee would share in the estate under the intestate laws, is void, unless the will may be otherwise proved.

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**Ontario.**—Wills must have two subscribing witnesses. A devise or a legacy to a witness, or the husband or the wife of a witness, is invalid. A will is construed as if it had been executed immediately before the death of the testator.

**Quebec.**—The code provides for the most absolute freedom of disposing of property by will by persons of full age, either by the French form, or the English, or the holographic will. Females may serve as attesting witnesses to the English will, but not to the French will. When a will is null because all the formalities required by law have not been observed according to one system, it may avail and be valid according to another system. The French form of wills consists in dictating the will to a notary of the province, in the presence of another notary or of two witnesses. The original remains of record in the notary's office, and the copies delivered by him under his signature are authentic. Holographic wills must be wholly written and signed by the testator, and require neither notaries nor witnesses. Wills in the English form must be signed by the testator in the presence of two witnesses. Wills of the last two kinds must be probated.



## CONSTITUTION OF THE UNITED STATES OF AMERICA

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### PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

### ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECTION 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senator of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION 4. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall



constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office..

SECTION 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless

the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. The congress shall have power,

To lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of



particular states, and the acceptance of congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex-post-facto* law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECTION 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty of

tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

#### ARTICLE II

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a number of members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.—Repealed by amendment XII.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.



In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECTION 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate shall appoint, ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The president, vice-president, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

#### ARTICLE III

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crime shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECTION 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have the power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

#### ARTICLE IV

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner



in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

#### ARTICLE V

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

#### ARTICLE VI

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### ARTICLE VII

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

In witness whereof we have hereunto subscribed our names.

[Signed by]

G<sup>o</sup> WASHINGTON,  
*Presidt. and Deputy from Virginia,*  
*and by thirty-nine delegates.*

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### AMENDMENTS

#### ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

#### ARTICLE II

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

#### ARTICLE III

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in the manner to be prescribed by law.

#### ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be



violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

#### ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

#### ARTICLE XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

## ARTICLE XIII

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

## ARTICLE XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States



and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SECTION 2. The congress shall have power to enforce this article by appropriate legislation.

## UNITED STATES BANKRUPTCY ACT

## CHAPTER I

## DEFINITIONS

SECTION 1. *Meaning of Words and Phrases.*—The words and phrases used in this act and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows: "A person against whom a petition has been filed" shall include a person who has filed a voluntary petition; "adjudication" shall mean the date of the entry of a decree that the defendant, in a bankruptcy proceeding, is a bankrupt, or if such decree is appealed from, then the date when such decree is finally confirmed; "appellate courts" shall include the circuit courts of appeals of the United States, the supreme courts of the territories, and the supreme court of the United States; "bankrupt" shall include a person against whom an involuntary petition or an application to set a composition aside or to revoke a discharge has been filed, or who has filed a voluntary petition, or who has been adjudged a bankrupt; "clerk" shall mean the clerk of a court of bankruptcy; "corporations" shall mean all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnerships, and shall include limited or other partnership associations organized under laws making the capital subscribed alone responsible for the debts of the association; "court" shall mean the court of bankruptcy in which the proceedings are pending, and may include the referee; "courts of bankruptcy" shall include the district courts of the United States and of the territories, the supreme court of the District of Columbia, and the United States court of the Indian Territory, and of Alaska; "creditor" shall include any one who owns a demand or claim provable in bankruptcy, and may include his duly authorized agent, attorney, or proxy; "date of bankruptcy," or "time of bankruptcy," or "commencement of proceedings," or "bankruptcy," with reference to time, shall mean the date when the petition was filed; "debt" shall include any debt, demand, or claim provable in bankruptcy; "discharge" shall mean the release of a bankrupt from all of his debts which are provable in bankruptcy, except such as are excepted by this act; "document" shall include any book, deed, or instrument in writing; "holiday" shall include Christmas, the Fourth of July, the twenty-second of February, and any day appointed by the president of the United States or the congress of the United States as a holiday or as a day of public fasting or thanksgiving; a person shall be deemed insolvent within the



provisions of this act whenever the aggregate of his property, exclusive of any property which he may have conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, with intent to defraud, hinder, or delay his creditors, shall not, at a fair valuation, be sufficient in amount to pay his debts; "judge" shall mean a judge of a court of bankruptcy, not including the referee; "oath" shall include affirmation; "officer" shall include clerk, marshal, receiver, referee, and trustee, and the imposing of a duty upon or the forbidding of an act by any officer shall include his successor and any person authorized by law to perform the duties of such officer; "persons" shall include corporations, except where otherwise specified, and officers, partnerships, and women, and when used with reference to the commission of acts which are herein forbidden shall include persons who are participants in the forbidden acts, and the agents, officers, and members of the board of directors or trustees, or other similar controlling bodies of corporations; "petition" shall mean a paper filed in a court of bankruptcy or with a clerk or deputy clerk by a debtor praying for the benefits of this act, or by creditors alleging the commission of an act of bankruptcy by a debtor therein named; "referee" shall mean the referee who has jurisdiction of the case or to whom the case has been referred, or any one acting in his stead; "conceal" shall include secrete, falsify, and mutilate; "secured creditor" shall include a creditor who has security for his debt upon the property of the bankrupt of a nature to be assignable under this act, or who owns such a debt for which some indorser, surety, or other persons secondarily liable for the bankrupt has such security upon the bankrupt's assets; "states" shall include the territories, the Indian Territory, Alaska, and the District of Columbia; "transfer" shall include the sale and every other and different mode of disposing of or parting with property, or the possession of property, absolutely or conditionally, as a payment, pledge, mortgage, gift, or security; "trustee" shall include all of the trustees of an estate; "wage-earner" shall mean an individual who works for wages, salary, or hire, at a rate of compensation not exceeding \$1,500 per year; words importing the masculine gender may be applied to and include corporations, partnerships, and women; words importing the plural number may be applied to and mean only a single person or thing; words importing the singular number may be applied to and mean several persons or things.

## CHAPTER II

### CREATION OF COURTS OF BANKRUPTCY AND THEIR JURISDICTION

SECTION 2. That the courts of bankruptcy as hereinbefore defined, viz., the district courts of the United States in the several states, the supreme court of the District of Columbia, the district courts of the several territories, and the United States courts in the Indian Territory

and the district of Alaska, are hereby made courts of bankruptcy, and are hereby invested, within their respective territorial limits as now established, or as they may be hereafter changed, with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings, in vacation in chambers and during their respective terms, as they are now or may be hereafter held, to adjudge persons bankrupt who have had their principal place of business, resided, or had their domicil within their respective territorial jurisdictions for the preceding 6 months, or the greater portion thereof, or who do not have their principal place of business, reside, or have their domicil within the United States, but have property within their jurisdictions, or who have been adjudged bankrupts by courts of competent jurisdiction without the United States and have property within their jurisdictions; allow claims, disallow claims, reconsider allowed or disallowed claims, and allow or disallow them against bankrupt estates; appoint receivers or the marshals, upon application of parties in interest, in case the courts shall find it absolutely necessary, for the preservation of estates, to take charge of the property of bankrupts after the filing of the petition and until it is dismissed or the trustee is qualified; arraign, try, and punish bankrupts, officers, and other persons, and the agents, officers, members of the board of directors or trustees, or other similar controlling bodies, of corporations for violations of this act, in accordance with the laws of procedure of the United States now in force, or such as may be hereafter enacted, regulating trials for the alleged violation of laws of the United States; authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates; bring in and substitute additional persons or parties in proceedings in bankruptcy when necessary for the complete determination of a matter in controversy; cause the estates of bankrupts to be collected, reduced to money, and distributed, and determine controversies in relation thereto, except as herein otherwise provided; close estates, whenever it appears that they have been fully administered, by approving the final accounts and discharging the trustees, and reopen them whenever it appears they were closed before being fully administered; confirm or reject compositions between debtors and their creditors, and set aside compositions and reinstate the cases; consider and confirm, modify or overrule, or return, with instructions for further proceedings, records and findings certified to them by referees; determine all claims of bankrupts to their exemptions; discharge or refuse to discharge bankrupts and set aside discharges and reinstate the cases; enforce obedience by bankrupts, officers, and other persons to all lawful orders; by fine or imprisonment or fine and imprisonment; extradite bankrupts from their respective districts to other districts; make such orders, issue such process, and enter such judgments in addition to those specifically provided for as may be



necessary for the enforcement of the provisions of this act; punish persons for contempts committed before referees; pursuant to the recommendation of creditors, or when they neglect to recommend the appointment of trustees, appoint trustees, and upon complaints of creditors, remove trustees for cause upon hearings and after notices to them; tax costs, whenever they are allowed by law, and render judgments therefor against the unsuccessful party, or the successful party for cause, or in part against each of the parties, and against estates, in proceedings in bankruptcy; and transfer cases to other courts of bankruptcy.

Nothing in this section contained shall be construed to deprive a court of bankruptcy of any power it would possess were certain specific powers not herein enumerated.

### CHAPTER III

#### BANKRUPTS

SECTION 3. *Acts of Bankruptcy.*—(a) Acts of bankruptcy by a person shall consist of his having conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, any part of his property with intent to hinder, delay, or defraud his creditors, or any of them; or transferred, while insolvent, any portion of his property to one or more of his creditors with intent to prefer such creditors over his other creditors; or suffered or permitted, while insolvent, any creditor to obtain a preference through legal proceedings, and not having at least 5 days before a sale or final disposition of any property affected by such preference vacated or discharged such preference; or made a general assignment for the benefit of his creditors; or admitted in writing his inability to pay his debts and his willingness to be adjudged a bankrupt on that ground.

(b) A petition may be filed against a person who is insolvent and who has committed an act of bankruptcy within 4 months after the commission of such act. Such time shall not expire until 4 months after the date of the recording or registering of the transfer or assignment when the act consists in having made a transfer of any of his property with intent to hinder, delay, or defraud his creditors, or for the purpose of giving a preference as hereinbefore provided, or a general assignment for the benefit of his creditors, if by law such recording or registering is required or permitted, or, if it is not, from the date when the beneficiary takes notorious, exclusive, or continuous possession of the property unless the petitioning creditors have received actual notice of such transfer or assignment.

(c) It shall be a complete defense to any proceedings in bankruptcy instituted under the first subdivision of this section to allege and prove that the party proceeded against was not insolvent as defined in this act at the time of the filing the petition against him, and if solvency at such date is proved by the alleged bankrupt the proceedings shall

be dismissed, and under said subdivision one the burden of proving solvency shall be on the alleged bankrupt.

(d) Whenever a person against whom a petition has been filed as hereinbefore provided under the second and third subdivisions of this section takes issue with and denies the allegation of his insolvency, it shall be his duty to appear in court on the hearing, with his books, papers, and accounts, and submit to an examination, and give testimony as to all matters tending to establish solvency or insolvency, and in case of his failure to so attend and submit to examination, the burden of proving his solvency shall rest upon him.

(e) Whenever a petition is filed by any person for the purpose of having another adjudged a bankrupt, and an application is made to take charge of and hold the property of the alleged bankrupt, or any part of the same, prior to the adjudication and pending a hearing on the petition, the petitioner or applicant shall file in the same court a bond with at least two good and sufficient sureties who shall reside within the jurisdiction of said court, to be approved by the court or a judge thereof, in such sum as the court shall direct, conditioned for the payment, in case such petition is dismissed, to the respondent, his or her personal representatives, all costs, expenses, and damages occasioned by such seizure, taking, and detention of the property of the alleged bankrupt.

If such petition be dismissed by the court or withdrawn by the petitioner, the respondent or respondents shall be allowed all costs, counsel fees, expenses, and damages occasioned by such seizure, taking, or detention of such property. Counsel fees, costs, expenses, and damages shall be fixed and allowed by the court, and paid by the obligors in such bond.

SECTION 4. *Who May Become Bankrupts.*—(a) Any person who owes debts, except a corporation, shall be entitled to the benefits of this act as a voluntary bankrupt.

(b) Any natural person, except a wage-earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any corporation engaged principally in manufacturing, trading, printing, publishing, or mercantile pursuits, owing debts to the amount of \$1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this act. Private bankers, but not national banks or banks incorporated under state or territorial laws, may be adjudged involuntary bankrupts.

SECTION 5. *Partners.*—(a) A partnership, during the continuation of the partnership business, or after its dissolution and before the final settlement thereof, may be adjudged a bankrupt.

(b) The creditors of the partnership shall appoint the trustee; in other respects so far as possible the estate shall be administered as herein provided for other estates.



(c) The court of bankruptcy which has jurisdiction of one of the partners may have jurisdiction of all the partners and of the administration of the partnership and individual property.

(d) The trustee shall keep separate accounts of the partnership property and of the property belonging to the individual partners.

(e) The expenses shall be paid from the partnership property and the individual property in such proportions as the court shall determine.

(f) The net proceeds of the partnership property shall be appropriated to the payment of the partnership debts, and the net proceeds of the individual estate of each partner to the payment of his individual debts. Should any surplus remain of the property of any partner after paying his individual debts, such surplus shall be added to the partnership assets and be applied to the payment of the partnership debts. Should any surplus of the partnership property remain after paying the partnership debts, such surplus shall be added to the assets of the individual partners in the proportion of their respective interests in the partnership.

(g) The court may permit the proof of the claim of the partnership estate against the individual estates, and vice versa, and may marshal the assets of the partnership estate and individual estates so as to prevent preferences and secure the equitable distribution of the property of the several estates.

(h) In the event of one or more but not all of the members of a partnership being adjudged bankrupt, the partnership property shall not be administered in bankruptcy, unless by consent of the partner or partners not adjudged bankrupt; but such partner or partners not adjudged bankrupt shall settle the partnership business as expeditiously as its nature will permit, and account for the interest of the partners or partners adjudged bankrupt.

SECTION 6. *Exemptions of Bankrupts.*—This act shall not affect the allowance to bankrupts of the exemptions which are prescribed by the state laws in force at the time of the filing of the petition in the state wherein they have had their domicile for the 6 months or the greater portion thereof immediately preceding the filing of the petition.

SECTION 7. *Duties of Bankrupts.*—The bankrupt shall attend the first meeting of his creditors, if directed by the court or a judge thereof to do so, and the hearing upon his application for a discharge, if filed; comply with all lawful orders of the court; examine the correctness of all proofs of claims filed against his estate; execute and deliver such papers as shall be ordered by the court; execute to his trustee transfers of all his property in foreign countries; immediately inform his trustee of any attempt, by his creditors or other persons, to evade the provisions of this act, coming to his knowledge; in case of any person having to his knowledge proved a false claim against his estate, disclose that fact immediately to his trustee; prepare,

make oath to, and file in court within 10 days, unless further time is granted, after the adjudication, if an involuntary bankrupt, and with the petition if a voluntary bankrupt, a schedule of his property, showing the amount and kind of property, the location thereof, its money value in detail, and a list of his creditors, showing their residences, if known, if unknown, that fact to be stated, the amounts due each of them, the consideration thereof, the security held by them, if any, and a claim for such exemptions as he may be entitled to, all in triplicate, one copy of each for the clerk, one for the referee, and one for the trustee; and when present at the first meeting of his creditors, and at such other times as the court shall order, submit to an examination concerning the conducting of his business, the cause of his bankruptcy, his dealings with his creditors and other persons, the amount, kind, and whereabouts of his property, and, in addition, all matters which may affect the administration and settlement of his estate; but no testimony given by him shall be offered in evidence against him in any criminal proceeding.

*Provided, however,* That he shall not be required to attend a meeting of his creditors, or at or for an examination at a place more than 150 miles distant from his home or principal place of business, or to examine claims except when presented to him, unless ordered by the court, or a judge thereof, for cause shown, and the bankrupt shall be paid his actual expenses from the estate when examined or required to attend at any place other than the city, town, or village of his residence.

SECTION 8. *Death or Insanity of Bankrupts.*—The death or insanity of a bankrupt shall not abate the proceedings, but the same shall be conducted and concluded in the same manner, so far as possible, as though he had not died or become insane: *Provided,* That in case of death the widow and children shall be entitled to all rights of dower and allowance fixed by the laws of the state of the bankrupt's residence.

SECTION 9. *Protection and Detention of Bankrupts.*—(a) A bankrupt shall be exempt from arrest upon civil process except in the following cases: When issued from a court of bankruptcy for contempt or disobedience of its lawful orders; when issued from a state court having jurisdiction, and served within such state, upon a debt or claim from which his discharge in bankruptcy would not be a release, and in such case he shall be exempt from such arrest when in attendance upon a court of bankruptcy or engaged in the performance of a duty imposed by this act.

(b) The judge may, at any time after the filing of a petition by or against a person, and before the expiration of 1 month after the qualification of the trustee, upon satisfactory proof by the affidavits of at least two persons that such bankrupt is about to leave the district in which he resides or has his principal place of business to avoid examination, and that his departure will defeat the proceedings in



bankruptcy, issue a warrant to the marshal, directing him to bring such bankrupt forthwith before the court for examination. If upon hearing the evidence of the parties it shall appear to the court or a judge thereof that the allegations are true and that it is necessary, he shall order such marshal to keep such bankrupt in custody not exceeding 10 days, but not imprison him, until he shall be examined and released or give bail conditioned for his appearance for examination, from time to time, not exceeding in all 10 days, as required by the court, and for his obedience to all lawful orders made in reference thereto.

SECTION 10. *Extradition of Bankrupts.*—Whenever a warrant for the apprehension of a bankrupt shall have been issued, and he shall have been found within the jurisdiction of a court other than the one issuing the warrant, he may be extradited in the same manner in which persons under indictment are now extradited from one district within which a district court has jurisdiction to another.

SECTION 11. *Suits By and Against Bankrupts.*—(a) A suit which is founded upon a claim from which a discharge would be a release, and which is pending against a person at the time of the filing of a petition against him, shall be stayed until after an adjudication or the dismissal of the petition; if such person is adjudged a bankrupt, such action may be further stayed until 12 months after the date of such adjudication, or, if within that time such person applies for a discharge, then until the question of such discharge is determined.

(b) The court may order the trustee to enter his appearance and defend any pending suit against the bankrupt.

(c) A trustee may, with the approval of the court, be permitted to prosecute as trustee any suit commenced by the bankrupt prior to the adjudication, with like force and effect as though it had been commenced by him.

(d) Suits shall not be brought by or against a trustee of a bankrupt estate subsequent to 2 years after the estate has been closed.

SECTION 12. *Compositions, When Confirmed.*—(a) A bankrupt may offer terms of composition to his creditors after, but not before, he has been examined in open court or at a meeting of his creditors and filed in court the schedule of his property and list of his creditors, required to be filed by bankrupts.

(b) An application for the confirmation of a composition may be filed in the court of bankruptcy after, but not before, it has been accepted in writing by a majority in number of all creditors whose claims have been allowed, which number must represent a majority in amount of such claims, and the consideration to be paid by the bankrupt to his creditors, and the money necessary to pay all debts which have priority and the cost of the proceedings, have been deposited in such place as shall be designated by and subject to the order of the judge.

(c) A date and place, with reference to the convenience of the parties in interest, shall be fixed for the hearing upon each application

for the confirmation of a composition, and such objections as may be made to its confirmation.

(d) The judge shall confirm a composition if satisfied that it is for the best interests of the creditors; the bankrupt has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to his discharge; and the offer and its acceptance are in good faith and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden.

(e) Upon the confirmation of a composition, the consideration shall be distributed as the judge shall direct, and the case dismissed. Whenever a composition is not confirmed, the estate shall be administered in bankruptcy as herein provided.

SECTION 13. *Composition, When Set Aside.*—The judge may, upon the application of parties in interest filed at any time within 6 months after a composition has been confirmed, set the same aside and reinstate the case if it shall be made to appear upon a trial that fraud was practiced in the procuring of such composition, and that the knowledge thereof has come to the petitioners since the confirmation of such composition.

SECTION 14. *Discharges, When Granted.*—(a) Any person may, after the expiration of 1 month and within the next 12 months subsequent to being adjudged a bankrupt, file an application for a discharge in the court of bankruptcy in which the proceedings are pending; if it shall be made to appear to the judge that the bankrupt was unavoidably prevented from filing it within such time, it may be filed within but not after the expiration of the next 6 months.

(b) The judge shall hear the application for a discharge, and such proofs and pleas as may be made in opposition thereto by parties in interest, at such time as will give parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has committed an offense punishable by imprisonment as herein provided; or with fraudulent intent to conceal his true financial condition and in contemplation of bankruptcy, destroyed, concealed, or failed to keep books of account or records from which his true condition might be ascertained.

(c) The confirmation of a composition shall discharge the bankrupt from his debts, other than those agreed to be paid by the terms of the composition and those not affected by a discharge.

SECTION 15. *Discharges, When Revoked.*—The judge may, upon the application of parties in interest who have not been guilty of undue laches, filed at any time within 1 year after a discharge shall have been granted, revoke it upon a trial if it shall be made to appear that it was obtained through the fraud of the bankrupt, and that the knowledge of the fraud has come to the petitioners since the granting of the discharge, and that the actual facts did not warrant the discharge.



SECTION 16. *Codebtors of Bankrupts.*—The liability of a person who is a codebtor with, or guarantor or in any manner a surety for, a bankrupt shall not be altered by the discharge of such bankrupt.

SECTION 17. *Debts Not Affected by a Discharge.*—A discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as are due as a tax levied by the United States, the state, county, district, or municipality in which he resides; are judgments in actions for frauds, or obtaining property by false pretenses or false representations, or for wilful and malicious injuries to the person or property of another; have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; or were created by his fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in any fiduciary capacity.

#### CHAPTER IV

##### COURTS AND PROCEDURE THEREIN

SECTION 18. *Process, Pleadings, and Adjudications.*—(a) Upon the filing of a petition for involuntary bankruptcy, service thereof, with a writ of subpœna, shall be made upon the person therein named as defendant in the same manner that service of such process is now had upon the commencement of a suit in equity in the courts of the United States, except that it shall be returnable within 15 days, unless the judge shall for cause fix a longer time; but in case personal service cannot be made, then notice shall be given by publication in the same manner and for the same time as provided by law for notice by publication in suits in equity in courts of the United States.

(b) The bankrupt, or any creditor, may appear and plead to the petition within 10 days after the return day, or within such further time as the court may allow.

(c) All pleadings setting up matters of fact shall be verified under oath.

(d) If the bankrupt, or any of his creditors, shall appear, within the time limited, and controvert the facts alleged in the petition, the judge shall determine, as soon as may be, the issues presented by the pleadings, without the intervention of a jury, except in cases where a jury trial is given by this act, and make the adjudication or dismiss the petition.

(e) If on the last day within which pleadings may be filed none are filed by the bankrupt or any of his creditors, the judge shall on the next day, if present, or as soon thereafter as practicable, make the adjudication or dismiss the petition.

(f) If the judge is absent from the district, or the division of the district in which the petition is pending, on the next day after the last day on which pleadings may be filed, and none have been filed by the

bankrupt or any of his creditors, the clerk shall forthwith refer the case to the referee.

(g) Upon the filing of a voluntary petition the judge shall hear the petition and make the adjudication or dismiss the petition. If the judge is absent from the district, or the division of the district in which the petition is filed at the time of the filing, the clerk shall forthwith refer the case to the referee.

SECTION 19. *Jury Trials.*—(a) A person against whom an involuntary petition has been filed shall be entitled to have a trial by jury, in respect to the question of his insolvency, except as herein otherwise provided, and any act of bankruptcy alleged in such petition to have been committed, upon filing a written application therefor at or before the time within which an answer may be filed. If such application is not filed within such time, a trial by jury shall be deemed to have been waived.

(b) If a jury is not in attendance upon the court, one may be specially summoned for the trial, or the case may be postponed, or, if the case is pending in one of the district courts within the jurisdiction of a circuit court of the United States, it may be certified for trial to the circuit court sitting at the same place, or by consent of parties when sitting at any other place in the same district, if such circuit court has or is to have a jury first in attendance.

(c) The right to submit matters in controversy, or an alleged offense under this act, to a jury shall be determined and enjoyed, except as provided by this act, according to the United States laws now in force or such as may be hereafter enacted in relation to trials by jury.

SECTION 20. *Oaths, Affirmations.*—(a) Oaths required by this act, except upon hearings in court, may be administered by referees; officers authorized to administer oaths in proceedings before the courts of the United States, or under the laws of the state where the same are to be taken; and diplomatic or consular officers of the United States in any foreign country.

(b) Any person conscientiously opposed to taking an oath may, in lieu thereof, affirm. Any person who shall affirm falsely shall be punished as for the making of a false oath.

SECTION 21. *Evidence.*—(a) A court of bankruptcy may, upon application of any officer, bankrupt, or creditor, by order require any designated person, including the bankrupt, who is a competent witness under the laws of the state in which the proceedings are pending, to appear in court or before a referee or the judge of any state court, to be examined concerning the acts, conduct, or property of a bankrupt whose estate is in process of administration under this act.

(b) The right to take depositions in proceedings under this act shall be determined and enjoyed according to the United States laws now in force, or such as may be hereafter enacted relating to the taking of depositions, except as herein provided.



(c) Notice of the taking of depositions shall be filed with the referee in every case. When depositions are to be taken in opposition to the allowance of a claim, notice shall also be served upon the claimant, and when in opposition to a discharge, notice shall also be served upon the bankrupt.

(d) Certified copies of proceedings before a referee, or of papers, when issued by the clerk or referee, shall be admitted as evidence with like force and effect as certified copies of the records of district courts of the United States are now or may hereafter be admitted as evidence.

(e) A certified copy of the order approving the bond of a trustee shall constitute conclusive evidence of the vesting in him of the title to the property of the bankrupt, and if recorded shall impart the same notice that a deed from the bankrupt to the trustee if recorded would have imparted had not bankruptcy proceedings intervened.

(f) A certified copy of an order confirming or setting aside a composition, or granting or setting aside a discharge, not revoked, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and of the fact that the order was made.

(g) A certified copy of an order confirming a composition shall constitute evidence of the revesting of the title of his property in the bankrupt, and if recorded shall impart the same notice that a deed from the trustee to the bankrupt if recorded would impart.

SECTION 22. *Reference of Cases After Adjudication.*—(a) After a person has been adjudged a bankrupt the judge may cause the trustee to proceed with the administration of the estate, or refer it generally to the referee or specially with only limited authority to act in the premises or to consider and report upon specified issues; or to any referee within the territorial jurisdiction of the court, if the convenience of parties in interest will be served thereby, or for cause, or if the bankrupt does not do business, reside, or have his domicile in the district.

(b) The judge may, at any time, for the convenience of parties or for cause, transfer a case from one referee to another.

SECTION 23. *Jurisdiction of United States and State Courts.*—(a) The United States circuit courts shall have jurisdiction of all controversies at law and in equity, as distinguished from proceedings in bankruptcy, between trustees as such and adverse claimants concerning the property acquired or claimed by the trustees, in the same manner and to the same extent only as though bankruptcy proceedings had not been instituted and such controversies had been between the bankrupts and such adverse claimants.

(b) Suits by the trustee shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant.

(c) The United States circuit courts shall have concurrent jurisdiction with the courts of bankruptcy, within their respective territorial limits, of the offenses enumerated in this act.

SECTION 24. *Jurisdiction of Appellate Courts.*—(a) The supreme court of the United States, the circuit courts of appeals of the United States, and the supreme courts of the territories, in vacation in chambers and during their respective terms, as now or as they may be hereafter held, are hereby invested with appellate jurisdiction of controversies arising in bankruptcy proceedings from the courts of bankruptcy from which they have appellate jurisdiction in other cases. The supreme court of the United States shall exercise a like jurisdiction from courts of bankruptcy not within any organized circuit of the United States and from the supreme court of the District of Columbia.

(b) The several circuit courts of appeal shall have jurisdiction in equity, either interlocutory or final, to superintend and revise in matter of law the proceedings of the several inferior courts of bankruptcy within their jurisdiction. Such power shall be exercised on due notice and petition by any party aggrieved.

SECTION 25. *Appeals and Writs of Error.*—(a) That appeals, as in equity cases, may be taken in bankruptcy proceedings from the courts of bankruptcy to the circuit court of appeals of the United States, and to the supreme court of the territories, in the following cases, to wit: From a judgment adjudging or refusing to adjudge the defendant a bankrupt; from a judgment granting or denying a discharge; and from a judgment allowing or rejecting a debt or claim of \$500 or over. Such appeal shall be taken within 10 days after the judgment appealed from has been rendered, and may be heard and determined by the appellate court in term or vacation, as the case may be.

(b) From any final decision of a court of appeals, allowing or rejecting a claim under this act, an appeal may be had under such rules and within such time as may be prescribed by the supreme court of the United States, in the following cases and no other. Where the amount in controversy exceeds the sum of \$2,000, and the question involved is one which might have been taken on appeal or writ of error from the highest court of a state to the supreme court of the United States; or where some justice of the supreme court of the United States shall certify that in his opinion the determination of the question or questions involved in the allowance or rejection of such claim is essential to a uniform construction of this act throughout the United States.

(c) Trustees shall not be required to give bond when they take appeals or sue out writs of error.

(d) Controversies may be certified to the supreme court of the United States from other courts of the United States, and the former court may exercise jurisdiction thereof and issue writs of *certiorari*



pursuant to the provisions of the United States laws now in force or such as may be hereafter enacted.

SECTION 26. *Arbitration of Controversies.*—(a) The trustee may, pursuant to the direction of the court, submit to arbitration any controversy arising in the settlement of the estate.

(b) Three arbitrators shall be chosen by mutual consent, or one by the trustee, one by the other party to the controversy, and the third by the two so chosen, or if they fail to agree in 5 days after their appointment the court shall appoint a third arbitrator.

(c) The written finding of the arbitrators, or a majority of them, as to the issues presented, may be filed in court and shall have like force and effect as the verdict of a jury.

SECTION 27. *Compromises.*—The trustee may, with the approval of the court, compromise any controversy arising in the administration of the estate upon such terms as he may deem for the best interests of the estate.

SECTION 28. *Designation of Newspapers.*—Courts of bankruptcy shall by order designate a newspaper published within their respective territorial districts, and in the county in which the bankrupt resides or the major part of his property is situated, in which notices required to be published by this act and orders which the court may direct to be published shall be inserted. Any court may in a particular case, for the convenience of parties in interest, designate some additional newspaper in which notices and orders in such case shall be published.

SECTION 29. *Offenses.*—(a) A person shall be punished, by imprisonment for a period not to exceed 5 years, upon conviction of the offense of having knowingly and fraudulently appropriated to his own use, embezzled, spent, or unlawfully transferred any property or secreted or destroyed any document belonging to a bankrupt estate which came into his charge as trustee.

(b) A person shall be punished, by imprisonment for a period not to exceed 2 years, upon conviction of the offense of having knowingly and fraudulently concealed while a bankrupt, or after his discharge, from his trustee any of the property belonging to his estate in bankruptcy; or made a false oath or account in, or in relation to, any proceeding in bankruptcy; presented under oath any false claim for proof against the estate of a bankrupt, or used any such claim in composition personally or by agent, proxy, or attorney, or as agent, proxy, or attorney; or received any material amount of property from a bankrupt after the filing of the petition, with intent to defeat this act; or extorted or attempted to extort any money or property from any person as a consideration for acting or forbearing to act in bankruptcy proceedings.

(c) A person shall be punished by fine, not to exceed \$500, and forfeit his office, and the same shall thereupon become vacant, upon conviction of the offense of having knowingly acted as a referee in a case in which he is directly or indirectly interested; or purchased, while a

referee, directly or indirectly, any property of the estate in bankruptcy of which he is referee; or refused, while a referee or trustee, to permit a reasonable opportunity for the inspection of the accounts relating to the affairs of, and the papers and records of, estates in his charge by parties in interest when directed by the court so to do.

† (d) A person shall not be prosecuted for any offense arising under this act unless the indictment is found or the information is filed in court within 1 year after the commission of the offense.

SECTION 30. *Rules, Forms, and Orders.*—All necessary rules, forms, and orders as to procedure and for carrying this act into force and effect shall be prescribed, and may be amended from time to time, by the supreme court of the United States.

SECTION 31. *Computation of Time.*—Whenever time is enumerated by days in this act, or in any proceeding in bankruptcy, the number of days shall be computed by excluding the first and including the last, unless the last fall on a Sunday or holiday, in which event the day last included shall be the next day thereafter which is not a Sunday or a legal holiday.

SECTION 32. *Transfer of Cases.*—In the event petitions are filed against the same person, or against different members of a partnership, in different courts of bankruptcy each of which has jurisdiction, the cases shall be transferred, by order of the courts relinquishing jurisdiction, to and be consolidated by one of such courts which can proceed with the same for the greatest convenience of parties in interest.

## CHAPTER V

### OFFICERS, THEIR DUTIES AND COMPENSATION

SECTION 33. *Creation of Two Offices.*—The offices of referee and trustee are hereby created.

SECTION 34. *Appointment, Removal, and Districts of Referees.* Courts of bankruptcy shall, within the territorial limits of which they respectively have jurisdiction, appoint referees, each for a term of 2 years, and may, in their discretion, remove them because their services are not needed or for other cause; and designate, and from time to time change, the limits of the districts of referees, so that each county, where the services of a referee are needed, may constitute at least one district.

SECTION 35. *Qualifications of Referees.*—Individuals shall not be eligible to appointment as referees unless they are respectively competent to perform the duties of that office; not holding any office of profit or emolument under the laws of the United States or of any state other than commissioners of deeds, justices of the peace, masters in chancery, or notaries public; not related by consanguinity or affinity, within the third degree as determined by the common law, to any of the judges of the courts of bankruptcy or circuit courts of the United States, or of the



justices or judges of the appellate courts of the districts wherein they may be appointed; and residents of, or have their offices in, the territorial districts for which they are to be appointed.

SECTION 36. *Oaths of Office of Referees.*—Referees shall take the same oath of office as that prescribed for judges of United States courts.

SECTION 37. *Number of Referees.*—Such number of referees shall be appointed as may be necessary to assist in expeditiously transacting the bankruptcy business pending in the various courts of bankruptcy.

SECTION 38. *Jurisdiction of Referees.*—Referees respectively are hereby invested, subject always to a review by the judge, within the limits of their districts as established from time to time, with jurisdiction to consider all petitions referred to them by the clerks and make the adjudications or dismiss the petitions; exercise the powers vested in courts of bankruptcy for the administering of oaths to and the examination of persons as witnesses and for requiring the production of documents in proceedings before them, except the power of commitment; exercise the powers of the judge for the taking possession and releasing of the property of the bankrupt in the event of the issuance by the clerk of a certificate showing the absence of a judge from the judicial district, or the division of the district, or his sickness, or inability to act; perform such part of the duties, except as to questions arising out of the applications of bankrupts for compositions or discharges, as are by this act conferred on courts of bankruptcy and as shall be prescribed by rules or orders of the courts of bankruptcy of their respective districts, except as herein otherwise provided; and upon the application of the trustee during the examination of the bankrupts, or other proceedings, authorize the employment of stenographers at the expense of the estates at a compensation not to exceed 10 cents per folio for reporting and transcribing the proceedings.

SECTION 39. *Duties of Referees.*—(a) Referees shall declare dividends and prepare and deliver to trustees dividend sheets showing the dividends declared and to whom payable; examine all schedules of property and lists of creditors filed by bankrupts and cause such as are incomplete or defective to be amended; furnish such information concerning the estates in process of administration before them as may be requested by the parties in interest; give notices to creditors as herein provided; make up records embodying the evidence, or the substance thereof, as agreed upon by the parties in all contested matters arising before them, whenever requested to do so by either of the parties thereto, together with their findings therein, and transmit them to the judges; prepare and file the schedules of property and lists of creditors required to be filed by the bankrupts, or cause the same to be done, when the bankrupts fail, refuse, or neglect to do so; safely keep, perfect, and transmit to the clerks the records, herein required to be kept by them, when the cases are concluded; transmit

to the clerks such papers as may be on file before them whenever the same are needed in any proceedings in courts, and in like manner secure the return of such papers after they have been used, or, if it be impracticable to transmit the original papers, transmit certified copies thereof by mail; upon application of any party in interest, preserve the evidence taken or the substance thereof as agreed upon by the parties before them when a stenographer is not in attendance; and whenever their respective offices are in the same cities or towns where the courts of bankruptcy convene, call upon and receive from the clerks all papers filed in courts of bankruptcy which have been referred to them.

(b) Referees shall not act in cases in which they are directly or indirectly interested; practice as attorneys and counselors at law in any bankruptcy proceedings; or purchase, directly or indirectly, any property of an estate in bankruptcy.

SECTION 40. *Compensation of Referees.*—(a) Referees shall receive as full compensation for their services, payable after they are rendered, a fee of \$10 deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and from estates which have been administered before them 1 per cent. commissions on sums to be paid as dividends and commissions, or one-half of 1 per cent. on the amount to be paid to creditors upon the confirmation of a composition.

(b) Whenever a case is transferred from one referee to another the judge shall determine the proportion in which the fee and commissions therefor shall be divided between the referees.

(c) In the event of the reference of a case being revoked before it is concluded, and when the case is specially referred, the judge shall determine what part of the fee and commissions shall be paid to the referee.

SECTION 41. *Contempts Before Referees.*—(a) A person shall not, in proceedings before a referee, disobey or resist any lawful order, process, or writ; misbehave during a hearing or so near the place thereof as to obstruct the same; neglect to produce, after having been ordered to do so, any pertinent document; or refuse to appear after having been subpoenaed, or, upon appearing, refuse to take the oath as a witness, or, after having taken the oath, refuse to be examined according to law: *Provided*, That no person shall be required to attend as a witness before a referee at a place outside of the state of his residence, and more than 100 miles from such place of residence, and only in case his lawful mileage and fee for 1 day's attendance shall be first paid or tendered to him.

(b) The referee shall certify the facts to the judge, if any person shall do any of the things forbidden in this section. The judge shall thereupon, in a summary manner, hear the evidence as the acts complained of, and, if it is such as to warrant him in so doing, punish



such person in the same manner and to the same extent as for a contempt committed before the court of bankruptcy, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the court.

SECTION 42. *Records of Referees.*—(a) The records of all proceedings in each case before a referee shall be kept as nearly as may be in the same manner as records are now kept in equity cases in circuit courts of the United States.

(b) A record of the proceedings in each case shall be kept in a separate book or books, and shall, together with the papers on file, constitute the records of the case.

(c) The book or books containing a record of the proceedings shall, when the case is concluded before the referee, be certified to by him, and, together with such papers as are on file before him, be transmitted to the court of bankruptcy and shall there remain as a part of the records of the court.

SECTION 43. *Referee's Absence or Disability.*—Whenever the office of a referee is vacant, or its occupant is absent or disqualified to act, the judge may act, or may appoint another referee, or another referee holding an appointment under the same court may, by order of the judge, temporarily fill the vacancy.

SECTION 44. *Appointment of Trustees.*—The creditors of a bankrupt estate shall, at their first meeting after the adjudication or after a vacancy has occurred in the office of trustee, or after an estate has been reopened, or after a composition has been set aside or a discharge revoked, or if there is a vacancy in the office of trustee, appoint one trustee or three trustees of such estate. If the creditors do not appoint a trustee or trustees as herein provided, the court shall do so.

SECTION 45. *Qualifications of Trustees.*—Trustees may be individuals who are respectively competent to perform the duties of that office, and reside or have an office in the judicial district within which they are appointed, or corporations authorized by their charters or by law to act in such capacity and having an office in the judicial district within which they are appointed.

SECTION 46. *Death or Removal of Trustees.*—The death or removal of a trustee shall not abate any suit or proceedings which he is prosecuting or defending at the time of his death or removal, but the same may be proceeded with or defended by his joint trustee or successor in the same manner as though the same had been commenced or was being defended by such joint trustee alone or by such successor.

SECTION 47. *Duties of Trustees.*—(a) Trustees shall respectively account for and pay over to the estates under their control all interest received by them upon property of such estates; collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estate as expeditiously as is

compatible with the best interests of the parties in interest; deposit all money received by them in one of the designated depositories; disburse money only by check or draft on the depositories in which it has been deposited; furnish such information concerning the estates of which they are trustees and their administration as may be requested by parties in interest; keep regular accounts showing all amounts received and from what sources and all amounts expended and on what accounts; lay before the final meeting of the creditors detailed statements of the administration of the estate; make final reports and file final accounts with the courts 15 days before the days fixed for the final meetings of the creditors; pay dividends within 10 days after they are declared by the referees; report to the courts, in writing, the condition of the estates and the amounts of money on hand, and such other details as may be required by the courts, within the first month after their appointment and every 2 months thereafter, unless otherwise ordered by the courts; and set apart the bankrupt's exemptions and report the items and estimated value thereof to the court as soon as practicable after their appointment.

(b) Whenever three trustees have been appointed for an estate, the concurrence of at least two of them shall be necessary to the validity of their every act concerning the administration of the estate.

SECTION 48. *Compensation of Trustees.*—(a) Trustees shall receive, as full compensation for their services, payable after they are rendered, a fee of \$5 deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and from estates which they have administered, such commissions on sums to be paid as dividends and commissions as may be allowed by the courts, not to exceed 3 per cent. on the first \$5,000 or less, 2 per cent. on the second \$5,000 or part thereof, and 1 per cent. on such sums in excess of \$10,000.

(b) In the event of an estate being administered by three trustees instead of one trustee or by successive trustees, the court shall apportion the fees and commissions between them according to the services actually rendered, so that there shall not be paid to trustees for the administering of any estate a greater amount than one trustee would be entitled to.

(c) The court may, in its discretion, withhold all compensation from any trustee who has been removed for cause.

SECTION 49. *Accounts and Papers of Trustees.*—The accounts and papers of trustees shall be open to the inspection of officers and all parties in interest.

SECTION 50. *Bonds of Referees and Trustees.*—(a) Referees, before assuming the duties of their offices, and within such time as the district courts of the United States having jurisdiction shall prescribe, shall respectively qualify by entering into bond to the United States in such sum as shall be fixed by such courts, not to exceed \$5,000, with



such sureties as shall be approved by such courts, conditioned for the faithful performance of their official duties.

(b) Trustees, before entering upon the performance of their official duties, and within 10 days after their appointment, or within such further time, not to exceed 5 days, as the court may permit, shall respectively qualify by entering into bond to the United States, with such sureties as shall be approved by the courts, conditioned for the faithful performance of their official duties.

(c) The creditors of a bankrupt estate, at their first meeting after the adjudication, or after a vacancy has occurred in the office of trustee, or after an estate has been reopened, or after a composition has been set aside or a discharge revoked, if there is a vacancy in the office of trustee, shall fix the amount of the bond of the trustee; they may at any time increase the amount of the bond. If the creditors do not fix the amount of the bond of the trustee as herein provided, the court shall do so.

(d) The court shall require evidence as to the actual value of the property of sureties.

(e) There shall be at least two sureties on each bond.

(f) The actual value of the property of the sureties, over and above their liabilities and exemptions, on each bond shall equal at least the amount of such bond.

(g) Corporations organized for the purpose of becoming sureties upon bonds, or authorized by law to do so, may be accepted as sureties upon the bonds of referees and trustees whenever the courts are satisfied that the rights of all parties in interest will be thereby amply protected.

(h) Bonds of referees, trustees, and designated depositories shall be filed of record in the office of the clerk of the court and may be sued upon in the name of the United States for the use of any person injured by a breach of their conditions.

(i) Trustees shall not be liable, personally or on their bonds, to the United States, for any penalties or forfeitures incurred by the bankrupts under this act, of whose estates they are respectively trustees.

(j) Joint trustees may give joint or several bonds.

(k) If any referee or trustee shall fail to give bond, as herein provided and within the time limited, he shall be deemed to have declined his appointment, and such failure shall create a vacancy in his office.

(l) Suits upon referees' bonds shall not be brought subsequent to 2 years after the alleged breach of the bond.

(m) Suits upon trustees' bonds shall not be brought subsequent to 2 years after the estate has been closed.

**SECTION 51. Duties of Clerks.**—Clerks shall respectively account for, as for other fees received by them, the clerk's fee paid in each case and such other fees as may be received for certified copies of

records which may be prepared for persons other than officers; collect the fees of the clerk, referee, and trustee in each case instituted before filing the petition, except the petition of a proposed voluntary bankrupt which is accompanied by an affidavit stating that the petitioner is without, and cannot obtain, the money with which to pay such fees; deliver to the referees upon application all papers which may be referred to them, or, if the offices of such referees are not in the same cities or towns as the offices of such clerks, transmit such papers by mail, and in like manner return papers which were received from such referees after they have been used; and within 10 days after each case has been closed pay to the referee, if the case was referred, the fee collected for him, and to the trustee the fee collected for him at the time of filing the petition.

SECTION 52. *Compensation of Clerks and Marshals.*—(a) Clerks shall respectively receive as full compensation for their service to each estate, a filing fee of \$10, except when a fee is not required from a voluntary bankrupt.

(b) Marshals shall respectively receive from the estate where an adjudication in bankruptcy is made, except as herein otherwise provided, for the performance of their services in proceedings in bankruptcy, the same fees, and account for them in the same way, as they are entitled to receive for the performance of the same or similar services in other cases in accordance with laws now in force, or such as may be hereafter enacted, fixing the compensation of marshals.

SECTION 53. *Duties of Attorney-General.*—The attorney-general shall annually lay before congress statistical tables showing for the whole country, and by states, the number of cases during the year of voluntary and involuntary bankruptcy; the amount of the property of the estates; the dividends paid and the expenses of administering such estates; and such other like information as he may deem important.

SECTION 54. *Statistics of Bankruptcy Proceedings.*—Officers shall furnish in writing and transmit by mail such information as is within their knowledge, and as may be shown by the records and papers in their possession, to the attorney-general, for statistical purposes, within 10 days after being requested by him to do so.

## CHAPTER VI

### CREDITORS

SECTION 55. *Meetings of Creditors.*—(a) The court shall cause the first meeting of the creditors of a bankrupt to be held, not less than 10 nor more than 30 days after the adjudication, at the county seat of the county in which the bankrupt has had his principal place of business, resided, or had his domicile; or if that place would be manifestly inconvenient as a place of meeting for the parties in interest, or if the bankrupt is one who does not do business, reside, or have his domicile



within the United States, the court shall fix a place for the meeting which is the most convenient for parties in interest. If such meeting should by any mischance not be held within such time, the court shall fix the date, as soon as may be thereafter, when it shall be held.

(b) At the first meeting of creditors the judge or referee shall preside, and, before proceeding with the other business, may allow or disallow the claims of creditors there presented, and may publicly examine the bankrupt or cause him to be examined at the instance of any creditor.

(c) The creditors shall at each meeting take such steps as may be pertinent and necessary for the promotion of the best interests of the estate and the enforcement of this act.

(d) A meeting of creditors, subsequent to the first one, may be held at any time and place when all of the creditors who have secured the allowance of their claims sign a written consent to hold a meeting at such time and place.

(e) The court shall call a meeting of creditors whenever one-fourth or more in number of those who have proven their claims shall file a written request to that effect; if such request is signed by a majority of such creditors, which number represents a majority in amount of such claims, and contains a request for such meeting to be held at a designated place, the court shall call such meeting at such place within 30 days after the date of the filing of the request.

(f) Whenever the affairs of the estate are ready to be closed a final meeting of creditors shall be ordered.

SECTION 56. *Voters at Meetings of Creditors.*—(a) Creditors shall pass upon matters submitted to them at their meetings by a majority vote in number and amount of claims of all creditors whose claims have been allowed and are present, except as herein otherwise provided.

(b) Creditors holding claims which are secured or have priority shall not, in respect to such claims, be entitled to vote at creditors' meetings, nor shall such claims be counted in computing either the number of creditors or the amount of their claims, unless the amounts of such claims exceed the values of such securities or priorities, and then only for such excess.

SECTION 57. *Proof and Allowance of Claims.*—(a) Proof of claims shall consist of a statement under oath, in writing, signed by a creditor setting forth the claim, the consideration therefor, and whether any, and, if so, what, securities are held therefor, and whether any, and, if so, what, payments have been made thereon, and that the sum claimed is justly owing from the bankrupt to the creditor.

(b) Whenever a claim is founded upon an instrument of writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim. If such instrument is lost or destroyed, a statement of such fact and of the circumstances of such loss or destruction shall be filed under oath with the claim. After the claim is allowed or disallowed,

such instrument may be withdrawn by permission of the court, upon leaving a copy thereof on file with the claim.

(c) Claims after being proved may, for the purpose of allowance, be filed by the claimants in the court where the proceedings are pending or before the referee if the case has been referred.

(d) Claims which have been duly proved shall be allowed, upon receipt by or upon presentation to the court, unless objection to their allowance shall be made by parties in interest, or their consideration be continued for cause by the court upon its own motion.

(e) Claims of secured creditors and those who have priority may be allowed to enable such creditors to participate in the proceedings at creditors' meetings held prior to the determination of the value of their securities or priorities, but shall be allowed for such sums only as to the courts seem to be owing over and above the value of their securities or priorities.

(f) Objections to claims shall be heard and determined as soon as the convenience of the court and the best interests of the estates and the claimants will permit.

(g) The claims of creditors who have received preferences shall not be allowed unless such creditors shall surrender their preferences.

(h) The value of securities held by secured creditors shall be determined by converting the same into money according to the terms of the agreement pursuant to which such securities were delivered to such creditors or by such creditors and the trustee, by agreement, arbitration, compromise, or litigation, as the court may direct, and the amount of such value shall be credited upon such claims, and a dividend shall be paid only on the unpaid balance.

(i) Whenever a creditor, whose claim against a bankrupt estate is secured by the individual undertaking of any person, fails to prove such claim, such person may do so in the creditor's name, and if he discharge such undertaking in whole or in part he shall be subrogated to that extent to the rights of the creditor.

(j) Debts owing to the United States, a state, a county, a district, or a municipality as a penalty or forfeiture shall not be allowed, except for the amount of the pecuniary loss sustained by the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby and such interest as may have accrued thereon according to law.

(k) Claims which have been allowed may be reconsidered for cause and reallocated or rejected in whole or in part, according to the equities of the case, before but not after the estate has been closed.

(l) Whenever a claim shall have been reconsidered and rejected, in whole or in part, upon which a dividend has been paid, the trustee may recover from the creditor the amount of the dividend received upon the claim if rejected in whole, or the proportional part thereof if rejected only in part.



(m) The claim of any estate which is being administered in bankruptcy against any like estate may be proved by the trustees and allowed by the court in the same manner and upon like terms as the claims of other creditors.

(n) Claims shall not be proved against a bankrupt estate subsequent to 1 year after the adjudication; or if they are liquidated by litigation and the final judgment therein is rendered within 30 days before or after the expiration of such time, then within 60 days after the rendition of such judgment: *Provided*, That the right of infants and insane persons without guardians, without notice of the proceedings, may continue 6 months longer.

SECTION 58. *Notices to Creditors.*—(a) Creditors shall have at least 10 days' notice by mail, to their respective addresses as they appear in the list of creditors of the bankrupt, or as afterwards filed with the papers in the case by the creditors, unless they waive notice in writing, of all examinations of the bankrupt; all hearings upon applications for the confirmation of compositions or the discharge of bankrupts; all meetings of creditors; all proposed sales of property; the declaration and time of payment of dividends; the filing of the final accounts of the trustee, and the time when and the place where they will be examined and passed upon; the proposed compromise of any controversy; and the proposed dismissal of the proceedings.

(b) Notice to creditors of the first meeting shall be published at least once and may be published such number of additional times as the court may direct; the last publication shall be at least 1 week prior to the date fixed for the meeting. Other notices may be published as the court shall direct.

(c) All notices shall be given by the referee, unless otherwise ordered by the judge.

SECTION 59. *Who May File and Dismiss Petitions.*—(a) Any qualified person may file a petition to be adjudged a voluntary bankrupt.

(b) Three or more creditors who have provable claims against any person which amount in the aggregate, in excess of the value of securities held by them, if any, to \$500 or over; or if all the creditors of such person are less than twelve in number, then one of such creditors whose claim equals such amount may file a petition to have him adjudged a bankrupt.

(c) Petitions shall be filed in duplicate, one copy for the clerk and one for service on the bankrupt.

(d) If it be averred in the petition that the creditors of the bankrupt are less than twelve in number, and less than three creditors have joined as petitioners therein, and the answer avers the existence of a large number of creditors, there shall be filed with the answer a list under oath of all the creditors, with their addresses, and thereupon the courts shall cause all such creditors to be notified of the pendency of such petition and shall delay the hearing upon such petition for a

reasonable time, to the end that parties in interest shall have an opportunity to be heard; if upon such hearing it shall appear that a sufficient number have joined in such petition, or if prior to or during such hearing a sufficient number shall join therein, the case may be proceeded with, but otherwise it shall be dismissed.

(e) In computing the number of creditors of a bankrupt for the purpose of determining how many creditors must join in the petition, such creditors as were employed by him at the time of the filing of the petition or are related to him by consanguinity or affinity within the third degree, as determined by the common law, and have not joined in the petition, shall not be counted.

(f) Creditors other than original petitioners may at any time enter their appearance and join in the petition, or file an answer and be heard in opposition to the prayer of the petition.

(g) A voluntary or involuntary petition shall not be dismissed by the petitioner or petitioners or for want of prosecution or by consent of parties until after notice to the creditors.

SECTION 60. *Preferred Creditors.*—(a) A person shall be deemed to have given a preference if, being insolvent, he has procured or suffered a judgment to be entered against himself in favor of any person, or made a transfer of any of his property, and the effect of the enforcement of such judgment or transfer will be to enable any one of his creditors to obtain a greater percentage of his debt than any other of such creditors of the same class.

(b) If a bankrupt shall have given a preference within 4 months before the filing of a petition, or after the filing of the petition and before the adjudication, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe that it was intended thereby to give a preference, it shall be voidable by the trustee, and he may recover the property or its value from such person.

(c) If a creditor has been preferred, and afterwards in good faith gives the debtor further credit without security of any kind for property which becomes a part of the debtor's estates, the amount of such new credit remaining unpaid at the time of the adjudication in bankruptcy may be set off against the amount which would otherwise be recoverable from him.

(d) If a debtor shall, directly or indirectly, in contemplation of the filing of a petition by or against him, pay money or transfer property to an attorney and counselor at law, solicitor in equity, or proctor in admiralty for services to be rendered, the transaction shall be reexamined by the court on petition of the trustee or any creditor, and shall only be held valid to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the trustee for the benefit of the estate.



## CHAPTER VII

## ESTATES

SECTION 61. *Depositories for Money.*—Courts of bankruptcy shall designate, by order, banking institutions as depositories for the money of bankrupt estates, as convenient as may be to the residences of trustees, and shall require bonds to the United States, subject to their approval, to be given by such banking institutions, and may from time to time, as occasion may require, by like order increase the number of depositories or the amount of any bond or change such depositories.

SECTION 62. *Expenses of Administering Estates.*—The actual and necessary expenses incurred by officers in the administration of estates shall, except where other provisions are made for their payment, be reported in detail, under oath, and examined and approved or disapproved by the court. If approved, they shall be paid or allowed out of the estates in which they were incurred.

SECTION 63. *Debts Which May Be Proved.*—(a) Debts of the bankrupt may be proved and allowed against his estate which are a fixed liability, as evidenced by a judgment or an instrument in writing, absolutely owing at the time of the filing of the petition against him, whether then, payable or not, with any interest thereon which would have been recoverable at that date, or with a rebate of interest upon such as were not then payable and did not bear interest; due as costs taxable against an involuntary bankrupt who was at the time of the filing of the petition against him plaintiff in a cause of action which would pass to the trustee and which the trustee declines to prosecute after notice; founded upon a claim for taxable costs incurred in good faith by a creditor before the filing of the petition in an action to recover a provable debt; founded upon an open account, or upon a contract, express or implied; and founded upon provable debts reduced to judgments after the filing of the petition and before the consideration of the bankrupt's application for a discharge, less costs incurred and interests accrued after the filing of the petition and up to the time of the entry of such judgments.

(b) Unliquidated claims against the bankrupt may, pursuant to application to the court, be liquidated in such manner as it shall direct, and may thereafter be proved and allowed against his estate.

SECTION 64. *Debts Which Have Priority.*—(a) The court shall order the trustee to pay all taxes legally due and owing by the bankrupt to the United States, state, county, district, or municipality in advance of the payment of dividends to creditors, and upon filing the receipts of the proper public officers for such payment he shall be credited with the amount thereof, and in case any question arises as to the amount or legality of any such tax the same shall be heard and determined by the court.

(b) The debts to have priority, except as herein provided, and to be paid in full out of bankrupt estates, and the order of payment shall be the actual and necessary cost of preserving the estates subsequent to filing the petition; the filing fees paid by creditors in involuntary cases; the cost of administration, including the fees and mileage payable to witnesses as now or hereafter provided by the laws of the United States, and one reasonable attorney's fee, for the professional services actually rendered, irrespective of the number of attorneys employed; to the petitioning creditors in involuntary cases, to the bankrupt in involuntary cases while performing the duties herein prescribed, and to the bankrupt in voluntary cases, as the court may allow; wages due to workmen, clerks, or servants which have been earned within 3 months before the date of the commencement of proceedings, not to exceed \$300 to each claimant; and debts owing to any person who, by the laws of the states or the United States, is entitled to priority.

(c) In the event of the confirmation of a composition being set aside, or a discharge revoked, the property acquired by the bankrupt, in addition to his estate at the time the composition was confirmed or the adjudication was made, shall be applied to the payment in full of the claims of creditors for property sold to him on credit, in good faith, while such composition or discharge was in force, and the residue, if any, shall be applied to the payment of the debts which were owing at the time of the adjudication.

SECTION 65. *Declaration and Payment of Dividends.*—(a) Dividends of an equal percentage shall be declared and paid on all allowed claims, except such as have priority or are secured.

(b) The first dividend shall be declared within 30 days after the adjudication, if the money of the estate in excess of the amount necessary to pay the debts which have priority and such claims as have not been, but probably will be, allowed equals 5 per cent. or more of such allowed claims. Dividends subsequent to the first shall be declared upon like terms as the first and as often as the amount shall equal 10 per cent. or more and upon closing the estate. Dividends may be declared oftener and in smaller proportions if the judge shall so order.

(c) The rights of creditors who have received dividends, or in whose favor final dividends have been declared, shall not be affected by the proof and allowance of claims subsequent to the date of such payment or declarations of dividends, but the creditors proving and securing the allowance of such claims shall be paid dividends equal in amount to those already received by the other creditors if the estate equals so much before such other creditors are paid any further dividends.

(d) Whenever a person shall have been adjudged a bankrupt by a court without the United States and also by a court of bankruptcy,



creditors residing within the United States shall first be paid a dividend equal to that received in the court without the United States by other creditors before creditors who have received a dividend in such courts shall be paid any amounts.

(e) A claimant shall not be entitled to collect from a bankrupt estate any greater amount than shall accrue pursuant to the provisions of this act.

SECTION 66. *Unclaimed Dividends.*—(a) Dividends which remain unclaimed for 6 months after the final dividend has been declared shall be paid by the trustee into court.

(b) Dividends remaining unclaimed for 1 year shall, under the direction of the court, be distributed to the creditors whose claims have been allowed but not paid in full, and after such claims have been paid in full the balance shall be paid to the bankrupt: *Provided*, That in case unclaimed dividends belong to minors such minors may have 1 year after arriving at majority to claim such dividends.

SECTION 67. *Liens.*—(a) Claims which for want of record or for other reasons would not have been valid liens as against the claims of the creditors of the bankrupt shall not be liens against his estate.

(b) Whenever a creditor is prevented from enforcing his rights as against a lien created, or attempted to be created, by his debtor, who afterwards becomes a bankrupt, the trustee of the estate of such bankrupt shall be subrogated to and may enforce such rights of such creditor for the benefit of the estate.

(c) A lien created by or obtained in or pursuant to any suit or proceeding at law or in equity, including an attachment upon mesne process or a judgment by confession, which was begun against a person within 4 months before the filing of a petition in bankruptcy by or against such person shall be dissolved by the adjudication of such person to be a bankrupt if it appears that said lien was obtained and permitted while the defendant was insolvent and that its existence and enforcement will work a preference, or the party or parties to be benefited thereby had reasonable cause to believe the defendant was insolvent and in contemplation of bankruptcy, or that such lien was sought and permitted in fraud of the provisions of this act; or if the dissolution of such lien would militate against the best interests of the estate of such person, the same shall not be dissolved, but the trustee of the estate of such person, for the benefit of the estate, shall be subrogated to the rights of the holder of such lien and empowered to perfect and enforce the same in his name as trustee with like force and effect as such holder might have done had not bankruptcy proceedings intervened.

(d) Liens given or accepted in good faith and not in contemplation of or in fraud upon this act, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice, shall not be affected by this act.

(e) That all conveyances, transfers, assignments, or encumbrances of his property, or any part thereof, made or given by a person adjudged a bankrupt under the provisions of this act subsequent to the passage of this act and within 4 months prior to the filing of the petition, with the intent and purpose on his part to hinder, delay, or defraud his creditors, or any of them, shall be null and void as against the creditors of such debtor, except as to purchasers in good faith and for a present fair consideration; and all property of the debtor conveyed, transferred, assigned, or encumbered as aforesaid shall, if he be adjudged a bankrupt, and the same is not exempt from execution and liability for debts by the law of his domicil, be and remain a part of the assets and estate of the bankrupt and shall pass to his said trustee, whose duty it shall be to recover and reclaim the same by legal proceedings or otherwise for the benefit of the creditors. And all conveyances, transfers, or encumbrances of his property made by a debtor at any time within 4 months prior to the filing of the petition against him, and while insolvent, which are held null and void as against the creditors of such debtor by the laws of the state, territory, or district in which such property is situate, shall be deemed null and void under this act against the creditors of such debtor if he be adjudged a bankrupt, and such property shall pass to the assignee and be by him reclaimed and recovered for the benefit of the creditors of the bankrupt.

(f) That all levies, judgments, attachments, or other liens, obtained through legal proceedings against a person who is insolvent, at any time within 4 months prior to the filing of a petition in bankruptcy against him, shall be deemed null and void in case he is adjudged a bankrupt, and the property affected by the levy, judgment, attachment, or other lien shall be deemed wholly discharged and released from the same, and shall pass to the trustee as a part of the estate of the bankrupt, unless the court shall, on due notice, order that the right under such levy, judgment, attachment, or other lien shall be preserved for the benefit of the estate; and thereupon the same may pass to and shall be preserved by the trustee for the benefit of the estate as aforesaid. And the court may order such conveyance as shall be necessary to carry the purposes of this section into effect: *Provided*, That nothing herein contained shall have the effect to destroy or impair the title obtained by such levy, judgment, attachment, or other lien, of a *bona-fide* purchaser for value who shall have acquired the same without notice or reasonable cause for inquiry.

SECTION 68. *Set-Offs and Counter-Claims.*—(a) In all cases of mutual debts or mutual credits between the estate of a bankrupt and a creditor, the account shall be stated and one debt shall be set off against the other, and the balance only shall be allowed or paid.

(b) A set-off or counter-claim shall not be allowed in favor of any debtor of the bankrupt which is not provable against the estate; or



was purchased by or transferred to him after the filing of the petition, or within 4 months before such filing, with a view to such use and with knowledge or notice that such bankrupt was insolvent, or had committed an act of bankruptcy.

SECTION 69. *Possession of Property.*—A judge may, upon satisfactory proof, by affidavit, that a bankrupt against whom an involuntary petition has been filed and is pending has committed an act of bankruptcy, or has neglected or is neglecting, or is about to so neglect his property that it has thereby deteriorated or is thereby deteriorating or is about thereby to deteriorate in value, issue a warrant to the marshal to seize and hold it subject to further orders. Before such warrant is issued the petitioners applying therefor shall enter into a bond in such an amount as the judge shall fix, with such sureties as he shall approve, conditioned to indemnify such bankrupt for such damages as he shall sustain in the event such seizure shall prove to have been wrongfully obtained. Such property shall be released, if such bankrupt shall give bond in a sum which shall be fixed by the judge, with such sureties as he shall approve, conditioned to turn over such property, or pay the value thereof in money to the trustee, in the event he is adjudged a bankrupt pursuant to such petition.

SECTION 70. *Title to Property.*—(a) The trustee of the estate of a bankrupt, upon his appointment and qualification, and his successor or successors, if he shall have one or more, upon his or their appointment and qualification, shall in turn be vested by operation of law with the title of the bankrupt, as of the day he was adjudged a bankrupt, except in so far as it is to property which is exempt, to all documents relating to his property; interests in patents, patent rights, copyrights, and trade-marks; powers which he might have exercised for his own benefit, but not those which he might have exercised for some other person; property transferred by him in fraud of his creditors; property which prior to the filing of the petition he could by any means have transferred or which might have been levied upon and sold under judicial process against him: (*Provided*, That when any bankrupt shall have any insurance policy which has a cash surrender value payable to himself, his estate, or personal representatives, he may, within 30 days after the cash surrender value has been ascertained and stated to the trustee by the company issuing the same, pay or secure to the trustee the sum so ascertained and stated, and continue to hold, own, and carry such policy free from the claims of the creditors participating in the distribution of his estate under the bankruptcy proceedings, otherwise the policy shall pass to the trustee as assets); and rights of action arising upon contracts or from the unlawful taking or detention of, or injury to, his property.

(b) All real and personal property belonging to bankrupt estates shall be appraised by three disinterested appraisers; they shall be appointed by, and report to, the court. Real and personal property

shall, when practicable, be sold subject to the approval of the court; it shall not be sold otherwise than subject to the approval of the court for less than 75 per cent. of its appraised value.

(c) The title to property of a bankrupt estate which has been sold, as herein provided, shall be conveyed to the purchaser by the trustee.

(d) Whenever a composition shall be set aside, or discharge revoked, the trustee shall, upon his appointment and qualification, be vested as herein provided with the title to all of the property of the bankrupt as of the date of the final decree setting aside the composition or revoking the discharge.

(e) The trustee may avoid any transfer by the bankrupt of his property which any creditor of such bankrupt might have avoided, and may recover the property so transferred, or its value, from the person to whom it was transferred, unless he was a *bona-fide* holder for value prior to the date of the adjudication. Such property may be recovered, or its value collected from whoever may have received it, except a *bona-fide* holder for value.

(f) Upon the confirmation of a composition offered by a bankrupt, the title to his property shall thereupon revert in him.

#### THE TIME WHEN THIS ACT SHALL GO INTO EFFECT

(a) This act shall go into full force and effect upon its passage: *Provided, however,* That no petition for voluntary bankruptcy shall be filed within 1 month of the passage thereof, and no petition for involuntary bankruptcy shall be filed within 4 months of the passage thereof.

(b) Proceedings commenced under state insolvency laws before the passage of this act shall not be affected by it.

Approved, July 1, 1898.

NOTE.—The foregoing act was amended in certain of its sections and subdivisions by act passed February 5, 1903. The full text of the amendatory act follows.



## AMENDMENT TO UNITED STATES BANKRUPTCY ACT

An Act to Amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause five of section 2 of said Act be, and the same is hereby, amended so as to read as follows:

"(5) Authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates, and allow such officers additional compensation for such services, but not at a greater rate than in this Act allowed trustees for similar services."

SECTION 2. That clause 4, subdivision (a) of section 3 of said Act, be, and the same is hereby, amended so as to read as follows:

"or (4) made a general assignment for the benefit of his creditors, or, being insolvent, applied for a receiver or trustee for his property or because of insolvency a receiver or trustee has been put in charge of his property under the laws of a state, of a territory, or of the United States."

SECTION 3. That subdivision (b) of section 4 of said Act be, and the same is hereby, amended so as to read as follows:

"(b) Any natural person, except a wage-earner, or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any corporation engaged principally in manufacturing, trading, printing, publishing, mining, or mercantile pursuits, owing debts to the amount of one thousand dollars or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this Act. Private bankers, but not national banks or banks incorporated under state or territorial laws, may be adjudged involuntary bankrupts.

"The bankruptcy of a corporation shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a state or territory or of the United States."

SECTION 4. That subdivision (b) of section 14 of said Act be, and the same is hereby, amended so as to read as follows:

"(b) The judge shall hear the application for a discharge, and such proofs and pleas as may be made in opposition thereto by parties in

interest, at such time as will give parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has (1) committed an offense punishable by imprisonment as herein provided; or (2) with intent to conceal his financial condition, destroyed, concealed, or failed to keep books of account or records from which such condition might be ascertained; or (3) obtained property on credit from any person upon a materially false statement in writing made to such person for the purpose of obtaining such property on credit; or (4) at any time subsequent to the first day of the four months immediately preceding the filing of the petition, transferred, removed, destroyed, or concealed, or permitted to be removed, destroyed, or concealed any of his property with intent to hinder, delay, or defraud his creditors; (5) in voluntary proceedings been granted a discharge in bankruptcy within six years; or (6) in the course of the proceedings in bankruptcy refused to obey any lawful order of or to answer any material question approved by the court."

SECTION 5. That section 17 of said Act be, and the same is hereby, amended so as to read as follows:

"SECTION 17. *Debts Not Affected by a Discharge.*—(a) A discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as (1) are due as a tax levied by the United States, the state, county, district, or municipality in which he resides; (2) are liabilities for obtaining property by false pretenses or false representations, or for wilful and malicious injuries to the person or property of another, or for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female, or for criminal conversation; (3) have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; or (4) were created by his fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in any fiduciary capacity."

SECTION 6. That subdivisions (a) and (b) of section 18 of said Act be, and the same are hereby, amended so as to read as follows:

"(a) Upon the filing of a petition for involuntary bankruptcy, service thereof, with a writ of subpœna, shall be made upon the person therein named as defendant in the same manner that service of such process is now had upon the commencement of a suit in equity in the courts of the United States, except that it shall be returnable within fifteen days, unless the judge shall for cause fix a longer time; but in case personal service cannot be made, then notice shall be given by publication in the same manner and for the same time as provided by law for notice by publication in suits to enforce a legal or equitable lien in courts of the United States, except that, unless the judge shall otherwise direct, the order shall be published not more than once a week



for two consecutive weeks, and the return day shall be ten days after the last publication unless the judge shall for cause fix a longer time."

"(b) The bankrupt, or any creditor, may appear and plead to the petition within five days after the return day, or within such further time as the court may allow."

SECTION 7. That subdivision (a) of section 21 of said Act be, and the same is hereby, amended so as to read as follows:

"(a) A court of bankruptcy may, upon application of any officer, bankrupt, or creditor, by order require any designated person, including the bankrupt and his wife, to appear in court or before a referee or the judge of any state court, to be examined concerning the acts, conduct, or property of a bankrupt whose estate is in process of administration under this Act: *Provided*, That the wife may be examined only touching business transacted by her or to which she is a party, and to determine the fact whether she has transacted or been a party to any business of the bankrupt."

SECTION 8. That subdivision (b) of section 23 of said Act be, and the same is hereby, amended so as to read as follows:

"(b) Suits by the trustee shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant, except suits for the recovery of property under section 60, subdivision (b), and section 67, subdivision (c)."

SECTION 9. That subdivision (a) of section 40 of said Act be, and the same is hereby, amended so as to read as follows:

"(a) Referees shall receive as full compensation for their services, payable after they are rendered, a fee of fifteen dollars deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and twenty-five cents for every proof of claim filed for allowance, to be paid from the estate, if any, as a part of the cost of administration, and from estates which have been administered before them one per centum commissions on all moneys disbursed to creditors by the trustee, or one-half of one per centum on the amount to be paid to creditors upon the confirmation of a composition."

SECTION 10. That section 47 is hereby amended by adding thereto the following subdivision:

"(c) The trustee shall, within thirty days after the adjudication, file a certified copy of the decree of adjudication in the office where conveyances of real estate are recorded in every county where the bankrupt owns real estate not exempt from execution, and pay the fee for such filing, and he shall receive a compensation of fifty cents for each copy so filed, which, together with the filing fee, shall be paid out of the estate of the bankrupt as a part of the cost and disbursements of the proceedings."

SECTION 11. That subdivision (a) of section 48 of said Act be, and the same is hereby, amended so as to read as follows:

"(a) Trustees shall receive for their services, payable after they are rendered, a fee of five dollars deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and from estates which they have administered, such commissions on all moneys disbursed by them as may be allowed by the courts, not to exceed six per centum on the first five hundred dollars or less, four per centum on moneys in excess of five hundred dollars and less than fifteen hundred dollars, two per centum on moneys in excess of fifteen hundred dollars and less than ten thousand dollars, and one per centum on moneys in excess of ten thousand dollars. And in case of the confirmation of a composition after the trustee has qualified, the court may allow him, as compensation, not to exceed one-half of one per centum of the amount to be paid the creditors on such composition."

SECTION 12. That subdivision (g) of section 57 of said Act be, and the same is hereby, amended so as to read as follows:

"(g) The claims of creditors who have received preferences, voidable under section 60, subdivision (b), or to whom conveyances, transfers, assignments, or incumbrances, void or voidable under section 67, subdivision (e), have been made or given, shall not be allowed unless such creditors shall surrender such preferences, conveyances, transfers, assignments, or incumbrances."

SECTION 13. That subdivisions (a) and (b) of section 60 of said Act be, and the same are hereby, amended so as to read as follows:

"(a) A person shall be deemed to have given a preference if, being insolvent, he has, within four months before the filing of the petition, or after the filing of the petition and before the adjudication, procured or suffered a judgment to be entered against himself in favor of any person, or made a transfer of any of his property, and the effect of the enforcement of such judgment or transfer will be to enable any one of his creditors to obtain a greater percentage of his debt than any other of such creditors of the same class. Where the preference consists in a transfer, such period of four months shall not expire until four months after the date of the recording or registering of the transfer, if by law such recording or registering is required."

"(b) If a bankrupt shall have given a preference, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe that it was intended thereby to give a preference, it shall be voidable by the trustee, and he may recover the property or its value from such person. And, for the purpose of such recovery, any court of bankruptcy, as hereinbefore defined, and any state court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction."



SECTION 14. That clause 2 of subdivision (b) of section 64 of said Act be, and the same is hereby, amended so as to read as follows:

"(2) the filing fees paid by creditors in involuntary cases, and, where property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the estate of the bankrupt by the efforts and at the expense of one or more creditors, the reasonable expenses of such recovery."

SECTION 15. That subdivision (b) of section 65 be, and the same is hereby, amended so as to read as follows:

The first dividend shall be declared within thirty days after the adjudication, if the money of the estate in excess of the amount necessary to pay the debts which have priority and such claims as have not been, but probably will be, allowed equals five per centum or more of such allowed claims. Dividends subsequent to the first shall be declared upon like terms as the first and as often as the amount shall equal ten per centum or more and upon closing the estate. Dividends may be declared oftener and in smaller proportions if the judge shall so order: *Provided*, That the first dividend shall not include more than fifty per centum of the money of the estate in excess of the amount necessary to pay the debts, which have priority and such claims as probably will be allowed: *And provided further*, That the final dividend shall not be declared within three months after the first dividend shall be declared."

SECTION 16. That subdivision (e) of section 67 and subdivision (e) of section 70 of said Act be, and the same are hereby, amended by adding at the end of each such subdivision the words:

"For the purpose of such recovery any court of bankruptcy as hereinbefore defined, and any State court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction."

SECTION 17. That said Act is also amended by adding thereto a new section, section 71, to read as follows:

"SECTION 71. That the clerks of the several district courts of the United States shall prepare and keep in their respective offices complete and convenient indexes of all petitions and discharges in bankruptcy heretofore or hereafter filed in the said courts, and shall, when requested so to do, issue certificates of search certifying as to whether or not any such petitions or discharges have been filed; and said clerks shall be entitled to receive for such certificates the same fees as now allowed by law for certificates as to judgments in said courts: *Provided*, That said bankruptcy indexes and dockets shall at all times be open to inspection and examination by all persons or corporations without any fee or charge therefor."

SECTION 18. That said Act is also amended by adding thereto a new section as follows:

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**"SECTION 72. That neither the referee nor the trustee shall in any form or guise receive, nor shall the court allow them, any other or further compensation for their services than that expressly authorized and prescribed in this Act."**

**SECTION 19. That the provisions of this amendatory Act shall not apply to bankruptcy cases pending when this Act takes effect, but such cases shall be adjudicated and disposed of conformably to the provisions of the said Act of July first, eighteen hundred and ninety-eight.**

**Approved, February 5, 1903.**



## THE NATIONAL-BANK ACT

(Compiled Under the Direction of the Comptroller of the Currency)

## CHAPTER I

## THE CURRENCY BUREAU

1. *The National-Bank Act.*—Section 1 of the act of June 20, 1874, provides that the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, shall hereafter be known as the "National-Bank Act."

2. *Comptroller of the Currency* (Sec. 324).—There shall be in the Department of the Treasury a Bureau charged with the execution of all laws passed by Congress relating to the issue and regulation of a national currency secured by United States bonds, the chief officer of which Bureau shall be called the Comptroller of the Currency, and shall perform his duties under the general direction of the Secretary of the Treasury.

3. *His Appointment, Term, and Salary* (Sec. 325).—The Comptroller of the Currency shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President, upon reasons to be communicated by him to the Senate; and he shall be entitled to a salary of \$5,000 a year.

4. *His Qualification* (Sec. 326).—The Comptroller of the Currency shall, within fifteen days from the time of notice of his appointment, take and subscribe the oath of office; and he shall give to the United States a bond in the penalty of \$100,000, with not less than two responsible sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office.

5. *Deputy Comptroller* (Sec. 327).—There shall be in the Bureau of the Comptroller of the Currency a Deputy Comptroller of the Currency, to be appointed by the Secretary, who shall be entitled to a salary of \$2,800 a year, and who shall possess the power and perform the duties attached by law to the office of Comptroller during a vacancy in the office or during the absence or inability of the Comptroller. The Deputy Comptroller shall also take the oath of office prescribed by the constitution and laws of the United States, and shall give a like bond in the penalty of \$50,000.

6. *Interest in National Banks Prohibited* (Sec. 329).—It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to be interested in any association issuing national currency under the laws of the United States.

7. *Office Clerks* (Sec. 328).—The Comptroller of the Currency shall employ, from time to time, the necessary clerks, to be appointed and classified by the Secretary of the Treasury, to discharge such duties as the Comptroller shall direct.

8. *Seal of Office* (Sec. 330).—The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of office of the Comptroller, and may be renewed when necessary. A description of the seal, with an impression thereof, and a certificate of approval of the Secretary of the Treasury, shall be filed in the office of the Secretary of State.

9. *Offices, Vaults, Etc.* (Sec. 331).—There shall be assigned, from time to time, to the Comptroller of the Currency, by the Secretary of the Treasury, suitable rooms in the Treasury building for conducting the business of the Currency Bureau, containing safe and secure fireproof vaults, in which the Comptroller shall deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comptroller shall, from time to time, furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the business of his office.

10. *Annual Report* (Sec. 333).—The Comptroller of the Currency shall make an annual report to Congress, at the commencement of its session, exhibiting:

FIRST. Condition of National Banks.—A summary of the state and condition of every association from which reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to such associations as in his judgment may be useful.

SECOND. Closed Banks.—A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

THIRD. Amendments Proposed.—Any amendment to the laws relative to banking by which the system may be improved and the security of the holders of its notes and other creditors may be increased.

FOURTH. Condition of Other Banks.—A statement exhibiting under appropriate heads the resources and liabilities and condition of the banks, banking companies, and savings banks organized under the laws of the several states and territories, such information to be



obtained by the Comptroller from the reports made by such banks, banking companies, and savings banks to the legislatures or officers of the different states and territories, and, where such reports cannot be obtained, the deficiency to be supplied from such other authentic sources as may be available.

FIFTH. *Employes and Expenses.*—The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year.

11. *When Annual Report Is Printed* (Sec. 3811).—When the annual report of the Comptroller of the Currency upon the national banks and banks under state and territorial laws is completed, or while it is in process of completion, if thereby the business may be sooner despatched, the work of printing shall be commenced, under the superintendence of the Secretary, and the whole shall be printed and ready for delivery on or before the first day of December next after the close of the year to which the report relates.

12. *Number of Copies to Be Printed.*—The act of January 12, 1895, provides that there shall be printed of the annual report of the Comptroller of the Currency 10,000 copies; 1,000 for the Senate, 2,000 for the House, and 7,000 for distribution by the Comptroller of the Currency.

## CHAPTER II

### ORGANIZATION AND POWERS OF NATIONAL BANKS

13. *Articles of Association* (Sec. 5133).—Associations for carrying on the business of banking under this title may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

14. *Organization Certificate* (Sec. 5134).—The persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specifically state:

FIRST. *Title.*—The name assumed by such association, which name shall be subject to the approval of the Comptroller of the Currency.

SECOND. *Location.*—The place where its operations of discount and deposit are to be carried on, designating the state, territory, or district, and the particular county and city, town, or village.

THIRD. *Capital Stock.*—The amount of capital stock and the number of shares into which the same is to be divided.

FOURTH. *Shareholders.*—The names and places of residence of the shareholders and the number of shares held by each of them.

**FIFTH. Object of Certificate.**—The fact that the certificate is made to enable such persons to avail themselves of the advantages of this title.

15. *Execution of Organization Certificate* (Sec. 5135).—The organization certificate shall be acknowledged before a judge of some court of record, or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

16. *Corporate Powers* (Sec. 5136).—Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power:

**FIRST. Seal.**—To adopt and use a corporate seal.

**SECOND. Term of Existence.**—To have succession for the period of twenty years from its organization, unless it is sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

**THIRD. Contracts.**—To make contracts.

**FOURTH. Suits.**—To sue and be sued, complain and defend, in any court of law and [or] equity, as fully as natural persons.

**FIFTH. Officers.**—To elect or appoint directors, and by its board of directors to appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

**SIXTH. By-Laws.**—To prescribe, by its board of directors, by-laws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

**SEVENTH. Incidental Powers.**—To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this title; but no association shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence the business of banking.

17. *Amount of Capital Stock Required* (Sec. 5138, as amended by act of March 14, 1900).—No association shall be organized with a



less capital than \$100,000, except that banks with a capital of not less than \$50,000 may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed 6,000 inhabitants, and except that banks with a capital of not less than \$25,000 may, with the sanction of the Secretary of the Treasury, be organized in any place the population of which does not exceed 3,000 inhabitants. No association shall be organized in a city the population of which exceeds 50,000 persons with a capital of less than \$200,000.

18. *Shares of Stock* (Sec. 5139).—The capital stock of each association shall be divided into shares of \$100 each, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares.

19. *Payment of Capital Stock* (Sec. 5140).—At least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each, on the whole amount of the capital, as frequently as one instalment at the end of each succeeding month from the time it shall be authorized by the Comptroller of the Currency to commence business; and the payment of each instalment shall be certified to the Comptroller, under oath, by the president or cashier of the association.

20. *Enforcing Payment of Capital* (Sec. 5141).—Whenever any shareholder, or his assignee, fails to pay any instalment on the stock when the same is required by the preceding section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city or county where the association is located, or, if no newspaper is published in said city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, to be not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the cost of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold it shall be canceled and deducted from the capital stock of the association.

21. *Restoration of Capital* (Sec. 5141).—If any such cancellation and reduction shall reduce the capital of the association below the minimum capital required by law, the capital stock shall, within

thirty days from the date of such cancelation, be increased to the required amount; in default of which a receiver may be appointed, according to the provisions of Section 5234, to close up the business of the association.

22. *Examination of Organization Proceedings* (Sec. 5168).—Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in this title, and the association transmitting the same notifies the Comptroller that at least fifty per centum of its capital stock has been duly paid in, and that such association has complied with all the provisions of this title required to be complied with before an association shall be authorized to commence the business of banking, the Comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this title required to entitle it to engage in the business of banking.

23. *Certificate of Officers and Directors* (Sec. 5168).—And shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

24. *Deposit of United States Bonds* (Sec. 5159).—Every association, after having complied with the provisions of this title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this title, shall transfer and deliver to the Treasurer of the United States, as security for its circulating notes, any United States registered bonds bearing interest, to an amount where the capital is \$150,000 or less, of not less than one-fourth of the capital, and \$50,000 where the capital is in excess of \$150,000. (Note.—As amended by Section 8 of the act of July 12, 1882.)

25. *Comptroller's Certificate of Authority* (Sec. 5169).—If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the Comptroller may withhold from an association his certificate authorizing



the commencement of business whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by this title.

26. *Publication of Certificate of Authority* (Sec. 5170).—The association shall cause the certificate issued under the preceding section to be published in some newspaper printed in the city or county where the association is located, for at least sixty days next after the issuing thereof; or, if no newspaper is published in such city or county, then in the newspaper published nearest thereto.

27. *Number and Election of Directors* (Sec. 5145).—The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking, and afterward at meetings to be held on such day in January of each year as is specified therefor in the articles of association. The directors shall hold office for one year, and until their successors are elected and have qualified.

28. *Qualifications of Directors* (Sec. 5146).—Every director must, during his whole term of service, be a citizen of the United States, and at least three-fourths of the directors must have resided in the state, territory, or district in which the association is located for at least one year immediately preceding their election, and must be residents therein during their continuance in office. Every director must own, in his own right, at least ten shares of the capital stock of the association of which he is a director. Any director who ceases to be the owner of ten shares of the stock, or who becomes in any other manner disqualified shall thereby vacate his place. [See page 445.]

29. *Qualifications of Directors in Oklahoma*.—Section 17 of the act of May 2, 1890, provides "that the provisions of title sixty-two of the Revised Statutes of the United States relating to national banks, and all amendments thereto, shall have the same force and effect in the territory of Oklahoma as elsewhere in the United States: Provided, That persons otherwise qualified to act as directors shall not be required to have resided in said territory for more than three months immediately preceding their election as such."

30. *Qualifications of Voters at Elections* (Sec. 5144).—In all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

31. *Oaths of Directors* (Sec. 5147).—Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such

association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this title, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by this title, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated or in any way pledged as security for any loan or debt. Such oath, subscribed by the director making it, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and shall be filed and preserved in his office.

32. *Failure to Hold Annual Election* (Sec. 5149).—If, from any cause, an election of directors is not made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located; and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper published nearest thereto. If the articles of association do not fix the day on which the election shall be held, or if no election is held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise; or, if the directors fail to fix the day, shareholders representing two-thirds of the shares may do so.

33. *Vacancies in Board of Directors* (Sec. 5148).—Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

34. *President Shall Be a Director* (Sec. 5150).—One of the directors, to be chosen by the board, shall be the president of the board.

35. *Organization of Gold Banks* (Sec. 5185).—Associations may be organized in the manner prescribed by this title for the purpose of issuing notes payable in gold.

36. *Conversion of Gold Banks*.—The act of February 14, 1880, provides that any national gold bank organized under the provisions of the laws of the United States may, in the manner and subject to the provisions prescribed by Section 5154 of the Revised Statutes of the United States, for the conversion of banks incorporated under the laws of any state, cease to be a gold bank and become such an association as is authorized by Section 5133, for carrying on the business of banking, and shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are by law prescribed for such associations: Provided, That all certificates of organization which shall be issued under this act shall bear the date of the original organization of each bank respectively as a gold bank.

37. *Conversion of State Banks* (Sec. 5154).—Any bank incorporated by special law, or any banking institution organized under a general



law of any state, may become a national association under this title by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate may be executed by a majority of the directors of the bank or banking institution; and the certificate shall declare that the owners of two-thirds of the capital stock have authorized the directors to make such certificate, and to change and convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be the directors of the association until others are elected or appointed in accordance with the provisions of this chapter; and any state bank which is a stockholder in any other bank, by authority of state laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this title. When the Comptroller of the Currency has given to such association a certificate, under his hand and official seal, that the provisions of this title have been complied with, and that it is authorized to commence the business of banking, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are prescribed for other associations, originally organized as national banking associations, and shall be held and regarded as such an association. But no such association shall have a less capital than the amount prescribed for associations organized under this title.

38. *Capital of State Banks* (Sec. 3410).—The capital of any state bank or banking association which has ceased or shall cease to exist, or which has been or shall be converted into a national bank, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid.

39. *Converted Banks May Retain Branches* (Sec. 5155).—It shall be lawful for any bank or banking association, organized under state laws and having branches, the capital being joint and assigned to and used by the mother bank and branches in definite proportions, to become a national banking association in conformity with existing laws and to retain and keep in operation its branches, or such one or more of them as it may elect to retain, the amount of the circulation redeemable at the mother bank and each branch to be regulated by the amount of capital assigned to and used by each.

40. *Personal Liability of Shareholders* (Sec. 5151).—The shareholders of every national banking association shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of

the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares, except that shareholders of any banking association now existing under state laws having not less than \$5,000,000 of capital actually paid in and a surplus of twenty per centum on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per centum shall be kept undiminished, and be in addition to the surplus provided for in this title; and if at any time there is a deficiency in such surplus of twenty per centum, such association shall not pay any dividends to its shareholders until the deficiency is made good; and in case of such deficiency the Comptroller of the Currency may compel the association to close its business and wind up its affairs under the provisions of chapter four [chapter seven of this edition] of this title.

41. *Exception for Trustees, Etc.* (Sec. 5152).—Persons holding stock as executors, administrators, guardians, or trustees shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be if living and competent to act and hold the stock in his own name.

42. *Amendment of Articles Restricted.*—Section 5139 provides that no change shall be made in the articles of association of a national bank by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

43. *Increase of Capital Stock* (Sec. 5142).—Any association formed under this title may, by its articles of association, provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this title. But the maximum of such increase to be provided in the articles of association shall be determined by the Comptroller of the Currency. Section 1 of the act of May 1, 1886, provides that any national banking association may, with the approval of the Comptroller of the Currency, by the vote of the shareholders owning two-thirds of the stock of such association, increase its capital stock, in accordance with existing laws, to any sum approved by the said Comptroller, notwithstanding the limit fixed in its original articles of association and determined by said Comptroller; and no increase of the capital stock of any national banking association either within or beyond the limit fixed in its original articles of association shall be made except in the manner herein provided.

44. *When Increase Becomes Valid* (Sec. 5142).—And no increase of capital shall be valid until the whole amount of such increase is paid in, and notice thereof has been transmitted to the Comptroller of the Currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association.



45. *Reduction of Capital Stock* (Sec. 5143).—Any association formed under this title may, by the vote of shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this title to authorize the formation of associations, but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and his approval thereof obtained.

46. *Change of Title and Location*.—Sections 2, 3, and 4 of the act of May 1, 1886, provide:

SEC. 2. That any national banking association may change its name or the place where its operations of discount and deposit are to be carried on to any other place within the same state, not more than thirty miles distant, with the approval of the Comptroller of the Currency, by the vote of shareholders owning two-thirds of the stock of such association. A duly authenticated notice of the vote and of the new name or location selected shall be sent to the office of the Comptroller of the Currency, but no change of name or location shall be valid until the Comptroller shall have issued his certificate of approval of the same.

SEC. 3. That all debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.

SEC. 4. That nothing in this act contained shall be so construed as in any manner to release any national banking association under its old name or at its old location from any liability, or affect any action or proceeding in law in which said association may be or become a party or interested.

47. *Status of National Banks Organized Under the Act of February 25, 1863* (Sec. 5156).—That nothing in this title shall affect any appointments made, acts done, or proceedings had or commenced prior to the 3d day of June, 1864, in or toward the organization of any national banking association under the act of February 25, 1863; but all associations which on the 3d day of June, 1864, were organized or commenced to be organized under that act shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this title, notwithstanding all the steps prescribed by this title for the organization of associations were not pursued, if such associations were duly organized under that act.

### CHAPTER III

#### BANK CIRCULATION

48. *United States Bonds Defined* (Sec. 5158).—The term "United States bonds," as used throughout this chapter, shall be construed to mean registered bonds of the United States.

49. (Sec. 5159 as amended by Sec. 8, act of July 12, 1882.)—Every association, after having complied with the provisions of this title, preliminary to the commencement of the banking business and before it shall be authorized to commence banking business under this title, shall transfer and deliver to the Treasurer of the United States any United States registered bonds, bearing interest, to an amount not less than one-fourth of the capital, the capital being \$150,000 or less, as security for their circulating notes. Such bonds shall be received by the Treasurer upon deposit and shall be by him safely kept in his office until they shall be otherwise disposed of in pursuance of the provisions of this title.

Section 4, act of June 20, 1874, provides in part that the amount of bonds on deposit for circulation shall not be reduced below \$50,000. This determines the amount of bonds required to be deposited by banks organizing with capital stock of over \$150,000.

50. *Relation of Bond Deposit to Capital* (Sec. 5160).—The deposit of bonds made by each association shall be increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount required by law. And any association that may desire to reduce its capital or to close up its business and dissolve its organization may take up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter required, or may take up any excess of bonds beyond the amount required by law, and upon which no circulating notes have been delivered.

51. *Exchange of Bonds* (Sec. 5161).—To facilitate a compliance with the two preceding sections, the Secretary of the Treasury is authorized to receive from any association, and cancel, any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run.

52. *Bonds Held by Treasurer* (Sec. 5162).—All transfers of United States bonds made by any association under the provisions of this title shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier, or some other officer of the association making the deposit. A receipt shall be given to the association, by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that the bond is held in trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency.

53. *Record of Bond Transfers* (Sec. 5163).—The Comptroller of the Currency shall keep in his office a book in which he shall cause to be



entered, immediately upon countersigning it, every transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, presented for his signature. He shall state in such entry the name of the association from whose account the transfer is made, the name of the party to whom it is made, and the par value of the bonds transferred.

54. *Notice of Transfer* (Sec. 5164).—The Comptroller of the Currency shall, immediately upon countersigning and entering any transfer or assignment by the Treasurer of any bonds belonging to a national banking association, advise by mail the association from whose accounts the transfer is made of the kind and numerical designation of the bonds and the amount thereof so transferred.

55. *Examination of Bonds and Records* (Sec. 5165).—The Comptroller of the Currency shall have at all times, during office hours, access to the books of the Treasurer of the United States for the purpose of ascertaining the correctness of any transfer or assignment of the bonds deposited by an association, presented to the Comptroller to countersign; and the Treasurer shall have the like access to the book mentioned in Section 5163, during office hours, to ascertain the correctness of the entries in the same; and the Comptroller shall also at all times have access to the bonds on deposit with the Treasurer to ascertain their amount and condition.

56. *Annual Examination of Bonds* (Sec. 5166).—Every association having bonds deposited in the office of the Treasurer of the United States shall, once or oftener in each fiscal year, examine and compare the bonds pledged by the association with the books of the Comptroller of the Currency and with the accounts of the association, and, if they are found correct, to execute to the Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of the certificate. Such examination shall be made at such time or times during the ordinary business hours as the Treasurer and the Comptroller, respectively, may select, and may be made by an officer or agent of such association, duly appointed in writing for that purpose; and his certificate before mentioned shall be of like force and validity as if executed by the president or cashier. A duplicate of such certificate, signed by the Treasurer, shall be retained by the association.

57. *General Provisions Respecting Bonds* (Sec. 5167).—The bonds transferred to and deposited with the Treasurer of the United States by any association for the security of its circulating notes shall be held exclusively for that purpose until such notes are redeemed, except as provided in this title. The Comptroller of the Currency shall give to any such association powers of attorney to receive and appropriate to its own use the interest on the bonds which it has so transferred to the Treasurer; but such powers shall become inoperative whenever such association fails to redeem its circulating notes. Whenever the

market or cash value of any bonds thus deposited with the Treasurer is reduced below the amount of the circulation issued for the same, the Comptroller may demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association, to be deposited with the Treasurer as long as such depreciation continues. And the Comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by any association for other bonds of the United States authorized to be received as security for circulating notes if he is of opinion that such an exchange can be made without prejudice to the United States; and he may direct the return of any bonds to the association which transferred the same, in sums of not less than \$1,000 upon the surrender to him and the cancelation of a proportionate amount of such circulating notes: Provided, That the remaining bonds which shall have been transferred by the association offering to surrender circulating notes are equal to the amount required for the circulating notes not surrendered by such association, and that the amount of bonds in the hands of the Treasurer is not diminished below the amount required to be kept on deposit with him, and that there has been no failure by the association to redeem its circulating notes, nor any other violation by it of the provisions of this title, and that the market or cash value of the remaining bonds is not below the amount required for the circulation issued for the same.

58. *Amount of Circulation Obtainable.*—Section 10 of the act of July 12, 1882, as amended by the act of March 14, 1900, provides that upon the deposit with the Treasurer of the United States, by any national banking association, of any bonds of the United States in the manner provided by existing law, such association shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited; and any national banking association now having bonds on deposit for the security of circulating notes, and upon which an amount of circulating notes has been issued less than the par value of the bonds, shall be entitled, upon due application to the Comptroller of the Currency, to receive additional circulating notes in blank to an amount which will increase the circulating notes held by such association to the par value of the bonds deposited, such additional notes to be held and treated in the same way as circulating notes of national banking associations heretofore issued, and subject to all the provisions of law affecting such notes: Provided, That the circulating notes furnished to national banking associations under the provisions of this act shall be of the denominations prescribed by law, except that no national banking association shall, after the passage of this act, be entitled to receive from the Comptroller of the Currency, or to issue or reissue or place in



circulation, more than one-third in amount of its circulating notes of the denomination of \$5: And provided further, That the total amount of such notes issued to any such association may equal at any time but shall not exceed the amount at such time of its capital stock actually paid in.

59. *Preparation of Bank Circulation* (Sec. 5172).—In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of \$5, \$10, \$20, \$50, \$100, \$500, and \$1,000, as may be required to supply the associations entitled to receive the same as amended by act of March 14, 1900. Such notes shall express upon their face that they are secured by United States bonds, deposited with the Treasurer of the United States, by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the Treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president or vice-president and cashier; and shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

60. *Circulation Shall Bear Charter Number*.—Section 5 of the act of June 20, 1874, provides that the Comptroller of the Currency shall, under such rules and regulations as the Secretary of the Treasury may prescribe, cause the charter number of the associations to be printed upon all national-bank notes which may be hereafter issued by him.

61. *Control of Plates and Dies* (Sec. 5173).—The plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction.

62. *Examination of Plates and Dies* (Sec. 5174).—The Comptroller of the Currency shall cause to be examined, each year, the plates, dies, but pieces [bed pieces], and other material from which the national-bank circulation is printed, in whole or in part, and file in his office annually a correct list of the same. Such material as shall have been used in the printing of the notes of associations which are in liquidation, or have closed business, shall be destroyed, under such regulations as shall be prescribed by the Comptroller of the Currency and approved by the Secretary of the Treasury. The expenses of any such examination or destruction shall be paid out of any appropriation made by Congress for the special examination of national banks and bank-note plates.

63. *Circulation, For What Receivable* (Sec. 5182).—After any association receiving circulating notes under this title has caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make

them obligatory promissory notes, payable on demand at its place of business, such association may issue and circulate the same as money. And the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency.

64. *Circulation of Gold Banks* (Sec. 5185).—Associations may be organized in the manner prescribed by this title for the purpose of issuing notes payable in gold; and upon the deposit of any United States bonds bearing interest payable in gold with the Treasurer of the United States, in the manner prescribed for other associations, it shall be lawful for the Comptroller of the Currency to issue to the association making the deposit circulating notes of different denominations, but none of them less than \$5, and not exceeding in amount eighty per centum of the par value of the bonds deposited, which shall express the promise of the association to pay them, upon presentation at the office at which they are issued, in gold coin of the United States, and shall be so redeemable.

65. *Worn-Out or Mutilated Circulation* (Sec. 5184).—It shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to the association other blank circulating notes to an equal amount. Such worn-out or mutilated notes, after a memorandum has been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be macerated in the presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. A certificate of such maceration, signed by the parties so appointed, shall be made in the books of the Comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

66. *Provisions for Redeeming Circulation*.—Section 3 of the act of June 20, 1874, provides that every association organized, or to be organized, under the provisions of the said act, and of the several acts amendatory thereof, shall at all times keep and have on deposit in the Treasury of the United States, in lawful money of the United States, a sum equal to five per centum of its circulation, to be held and used for the redemption of such circulation; which sum shall be counted as a part of its lawful reserve, as provided in Section 2 of this act; and when the circulating notes of any such associations, assorted



or unassorted, shall be presented for redemption, in sums of \$1,000 or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. All notes so redeemed shall be charged by the Treasurer of the United States to the respective associations issuing the same, and he shall notify them severally, on the first day of each month, or oftener, at his discretion, of the amount of such redemptions; and whenever such redemptions for any association shall amount to the sum of \$500, such association so notified shall forthwith deposit with the Treasurer of the United States a sum in United States notes equal to the amount of its circulating notes so redeemed. And all notes of national banks, worn, defaced, mutilated, or otherwise unfit for circulation, shall, when received by any assistant treasurer, or at any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as provided herein. And when such redemptions have been so reimbursed, the circulating notes so redeemed shall be forwarded to the respective associations by which they were issued; but if any of such notes are worn, mutilated, defaced, or rendered otherwise unfit for use, they shall be forwarded to the Comptroller of the Currency and destroyed, and replaced as now provided by law: Provided, That each of said associations shall reimburse to the Treasury the charges for transportation and the costs for assorting such notes; and the associations hereafter organized shall also severally reimburse to the Treasury the cost of engraving such plates as shall be ordered by each association respectively; and the amount assessed upon each association shall be in proportion to the circulation redeemed, and be charged to the fund on deposit with the Treasurer.

67. *Withdrawing Circulation.*—Section 4 of the act of June 20, 1874, provides that any association organized under this act, or any of the acts of which this is an amendment, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than \$9,000, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating notes, which bonds shall be assigned to the bank in the manner specified in the nineteenth section of the national-bank act; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States, and destroyed as now provided by law: Provided, That the amount of the bonds on deposit for circulation shall not be reduced below \$50,000.

68. *General Provisions for Withdrawing Circulation.*—The act of July 12, 1882, provides:

SEC. 8. That the national banks which shall hereafter make deposits of lawful money for the retirement in full of their circulation shall, at the time of their deposit, be assessed for the cost of transporting and redeeming their notes then outstanding, a sum equal to the average

cost of the redemption of national-bank notes during the preceding year, and shall thereupon pay such assessment; and all national banks which have heretofore made or shall hereafter make deposits of lawful money for the reduction of their circulation shall be assessed, and shall pay an assessment in the manner specified in Section 3 of the act approved June 20, 1874, for the cost of transporting and redeeming their notes redeemed from such deposits subsequently to June 30, 1881.

SEC. 9. (As amended by act of March 14, 1900.) That any national banking association now organized, or hereafter organized, desiring to withdraw its circulating notes, upon a deposit of lawful money with the Treasurer of the United States, as provided in Section 4 of the act of June 20, 1874, or as provided in this act, is authorized to deposit lawful money and withdraw a proportionate amount of the bonds held as security for its circulating notes in the order of such deposits: Provided, That not more than \$3,000,000 of lawful money shall be deposited during any calendar month for this purpose: And provided further, That the provisions of this section shall not apply to bonds called for redemption by the Secretary of the Treasury, nor to the withdrawal of circulating notes in consequence thereof.

69. *Circulation of Extended Banks.*—Section 6 of the act of July 12, 1882, provides that the circulating notes of any association so extending the period of its succession which shall have been issued to it prior to such extension shall be redeemed at the Treasury of the United States, as provided in Section 3 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for redistribution of national bank currency, and for other purposes," and such notes when redeemed shall be forwarded to the Comptroller of the Currency, and destroyed, as now provided by law; and at the end of three years from the date of the extension of the corporate existence of each bank the association so extended shall deposit lawful money with the Treasurer of the United States sufficient to redeem the remainder of the circulation which was outstanding at the date of its extension, as provided in Sections 5222, 5224, and 5225 of the Revised Statutes; and any gain that may arise from the failure to present such circulating notes for redemption shall inure to the benefit of the United States; and from time to time, as such notes are redeemed or lawful money deposited therefor as provided herein, new circulating notes shall be issued as provided for by this act, bearing such devices, to be approved by the Secretary of the Treasury, as shall make them readily distinguishable from the circulating notes heretofore issued: Provided, however, That each banking association which shall obtain the benefit of this act shall reimburse to the Treasury the cost of preparing the plate or plates for such new circulating notes as shall be issued to it.

70. *Circulation of Liquidating Banks* (Sec. 5225).—Whenever the Treasurer has redeemed any of the notes of an association which has



commenced to close its affairs, he shall cause the notes to be mutilated and charged to the redemption account of the association; and all notes so redeemed by the Treasurer shall, every three months, be certified to and destroyed in the manner prescribed in Section 5184.

71. *Circulation of Closed Banks.*—Section 8 of the act of June 20, 1874, provides: And it shall be the duty of the Treasurer, assistant treasurers, designated depositaries, and national-bank depositaries of the United States to assort and return to the Treasury for redemption the notes of such national banks as have failed, or gone into voluntary liquidation for the purpose of winding up their affairs, and of such as shall hereafter so fail or go into liquidation.

72. *Regulations for Redemption Records* (Sec. 5232).—The Secretary of the Treasury may, from time to time, make such regulations respecting the disposition to be made of circulating notes after presentation at the Treasury of the United States for payment, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper.

73. *Redeemed Notes to Be Canceled* (Sec. 5233).—All notes of national banking associations presented at the Treasury of the United States for payment shall, on being paid, be canceled.

74. *Redemption in United States Notes.*—Section 3 of the act approved June 20, 1874, provides that when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of \$1,000 or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes.

75. *Disposition of Redemption Account.*—Section 6 of the act of July 14, 1890, provides that upon the passage of this act the balances standing with the Treasurer of the United States to the respective credits of national banks for deposits made to redeem the circulating notes of such banks, and all deposits thereafter received for like purpose, shall be covered into the Treasury as a miscellaneous receipt, and the Treasurer of the United States shall redeem from the general cash in the Treasury the circulating notes of said banks which may come into his possession subject to redemption; and upon the certificate of the Comptroller of the Currency that such notes have been received by him and that they have been destroyed and that no new notes will be issued in their place, reimbursement of their amount shall be made to the Treasurer, under such regulations as the Secretary of the Treasury may prescribe from an appropriation hereby created, to be known as "national-bank notes, redemption account." But the provisions of this act shall not apply to the deposits received under Section 3 of the act of June 20, 1874, requiring every national bank to keep in lawful money with the Treasurer of the United States a sum equal to five per centum of its circulation, to be held and used for the redemption of its circulating notes; and the balance remaining

of the deposits so covered shall, at the close of each month, be reported on the monthly public debt statement as debt of the United States bearing no interest.

76. *Redemption of Incomplete Circulation.*—The act of July 28, 1892, provides that the provisions of the Revised Statutes of the United States, providing for the redemption of national-bank notes, shall apply to all national-bank notes that have been or may be issued to, or received by, any national bank, notwithstanding such notes may have been lost by or stolen from the bank and put in circulation without the signature or upon the forged signature of the president or vice-president and cashier.

77. *Banks Take Circulation at Par* (Sec. 5196).—Every national banking association formed or existing under this title shall take and receive at par, for any debt or liability to it, any and all notes or bills issued by any lawfully organized national banking association. But this provision shall not apply to any association organized for the purpose of issuing notes payable in gold.

78. *Issue of Other Notes Prohibited* (Sec. 5183).—No national banking association shall issue post notes or any other notes to circulate as money than such as are authorized by the provisions of this title.

79. *Fraudulent Notes to Be Marked.*—Section 5 of the act of June 30, 1876, provides that all United States officers charged with the receipt or disbursement of public moneys, and all officers of national banks, shall stamp or write in plain letters the word "counterfeit," "altered," or "worthless," upon all fraudulent notes issued in the form of and intended to circulate as money which shall be presented at their places of business; and if such officer shall wrongfully stamp any genuine note of the United States, or of the national banks, they shall, upon presentation, redeem such notes at the face value thereof.

## CHAPTER IV

### TAX ON CIRCULATION

80. *Tax on Circulation* (Sec. 5214).—In lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one-half of one per centum each half year upon the average amount of its notes in circulation. Section 13 of the act of Congress approved March 14, 1900, provides that every national banking association having on deposit, as provided by law, bonds of the United States bearing interest at the rate of two per centum per annum, issued under the provisions of this act, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of said two-per-centum



bonds; and such taxes shall be in lieu of existing taxes on its notes in circulation imposed by Section 5214 of the Revised Statutes.

81. *Semiannual Return of Circulation* (Sec. 5215).—In order to enable the Treasurer to assess the duties imposed by the preceding sections, each association shall, within ten days from the first days of January and July of each year, make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average amount of its notes in circulation for the six months next preceding the most recent first day of January or July. Every association which fails so to make such return shall be liable to a penalty of \$200, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States.

82. *Proceedings on Default* (Sec. 5216).—Whenever any association fails to make the half-yearly return required by the preceding section, the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency.

83. *Enforcing Tax on Circulation* (Sec. 5217).—Whenever an association fails to pay the duties imposed by the three preceding sections, the sums due may be collected in the manner provided for the collection of United States taxes from other corporations; or the Treasurer may reserve the amount out of the interest, as it may become due, on the bonds deposited with him by such defaulting association.

84. *Refunding Excess Tax* (Sec. 5218).—In all cases where an association has paid or may pay in excess of what may be or has been found due from it, on account of the duty required to be paid to the Treasurer of the United States, the association may state an account therefor, which, on being certified by the Treasurer of the United States, and found correct by the Comptroller of the Treasury, shall be refunded in the ordinary manner by warrant on the Treasury.

85. *Circulation, When Exempt From Tax* (Sec. 3411).—Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation; and whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury shall prescribe, it shall be exempt from any tax upon such circulation.

86. *Tax on Unauthorized Circulation*.—Sections 19, 20, and 21 of the act of February 8, 1875, provide:

SEC. 19.—That every person, firm, association, other than national bank associations, and every corporation, state bank, or state banking association shall pay a tax of ten per centum on the amount of their own notes used for circulation and paid out by them.

SEC. 20.—That every such person, firm, association, corporation, state bank, or state banking association, and also every national banking association, shall pay a like tax of ten per centum on the amount of notes of any person, firm, association, other than a national banking association, or of any corporation, state bank, or state banking association, or of any town, city, or municipal corporations, used for circulation and paid out by them.

SEC. 21.—That the amount of such circulating notes, and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on deposits, capital, and circulation imposed by the existing provisions of internal-revenue law.

87. *Semiannual Return of Taxable Circulation* (Sec. 3414). A true and complete return of the monthly amount of circulation, as aforesaid, and of the monthly amount of notes of persons, town, city, or municipal corporations, state banks, or state banking associations paid out as aforesaid for the previous six months, shall be made and rendered in duplicate on the first day of December and the first day of June by each of such banks, associations, corporations, companies, or persons, with a declaration annexed thereto, under the oath of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amounts subject to tax, as aforesaid; and one copy shall be transmitted to the collector of the district in which any such bank, association, corporation, or company is situated, or in which such person has his place of business, and one copy to the Commissioner of Internal Revenue.

88. *Failure to Make Such Return* (Sec. 3415).—In default of the returns provided in the preceding section, the amount of circulation, and notes of persons, town, city, and municipal corporations, state banks, and state banking associations paid out, as aforesaid, shall be estimated by the Commissioner of Internal Revenue, upon the best information he can obtain. And for any refusal or neglect to make return and payment any such bank, association, corporation, company, or person so in default shall pay a penalty of \$200, besides the additional penalty and forfeitures provided in other cases.

89. *Tax on Converted Bank Circulation* (Sec. 3416).—Whenever any state bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such state bank or banking association,



including the redemption of its bills, by any agreement or understanding whatever with the representatives of such state bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such state bank or banking association.

90. *Tax Provisions Restricted* (Sec. 3417).—The provisions of this chapter relating to the tax on the circulation of banks and to their returns, except as contained in Sections 3411, 3412, 3413, and 3416, and such parts of Sections 3414 and 3415 as relate to the tax of ten per centum on certain notes, shall not apply to associations which are taxed under and by virtue of title "National Banks."

91. *Taxation of Notes, Etc.* (Sec. 3701).—All stocks, bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under state or municipal or local authority. The act of August 13, 1894, provides:

SEC. 1. That circulating notes of national banking associations and United States legal-tender notes and other notes and certificates of the United States, payable on demand and circulating or intended to circulate as currency, and gold, silver, or other coin shall be subject to taxation as money on hand or on deposit under the laws of any state or territory: Provided, That any such taxation shall be exercised in the same manner and at the same rate that any such state or territory shall tax money or currency circulating as money within its jurisdiction.

SEC. 2. That the provisions of this act shall not be deemed or held to change existing laws in respect of the taxation of national banking associations.

## CHAPTER V

### REGULATION OF THE BANKING BUSINESS

92. *Laws Governing Certain Associations* (Sec. 5157).—The provisions of chapters two, three, and four [three, five, and seven of this edition] of this title, which are expressed without restrictive words, as applying to "national banking association," or to "associations," apply to all associations organized to carry on the business of banking under any act of Congress.

93. *Place of Business* (Sec. 5190).—The usual business of each national banking association shall be transacted at an office or banking house located in the place specified in its organization certificate.

94. *Reserve Cities and Reserve Requirements* (Sec. 5191).—Every national banking association in either of the following cities, Albany, Baltimore, Boston, Cincinnati, Chicago, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburgh, Saint Louis, San Francisco, and Washington, shall at all times have on hand in lawful money of the United States, an amount equal to at least

twenty-five per centum of the aggregate amount of its deposits; and every other association shall at all times have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its deposits.

95. *Reserve Not Maintained* (Sec. 5191).—Whenever the lawful money of any association in any of the cities named shall be below the amount of twenty-five per centum of its deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its deposits and its lawful money of the United States has been restored. And the Comptroller of the Currency may notify any association, whose lawful-money reserve shall be below the amount above required to be kept on hand, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful-money, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association, as provided in Section 5234.

96. *Reserve Agents' Balances Counted as Reserve* (Sec. 5192). Three-fifths of the reserve of fifteen per centum required by the preceding section to be kept may consist of balances due to an association from associations approved by the Comptroller of the Currency, organized under the act of June 3, 1864, or under this title, and doing business in the cities of Albany, Baltimore, Boston, Charleston, Chicago, Cincinnati, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburgh, Richmond, Saint Louis, San Francisco, and Washington.

97. *Clearing-House Certificates Counted as Reserve*.—Clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall also be deemed to be lawful money in the possession of any association belonging to such clearing house, holding and owning such certificate with the preceding section.

98. *Redemption Fund Counted as Reserve*.—Section 3 of the act of June 20, 1874, provides that the five-per-centum redemption fund, which shall at all times be kept on deposit with the Treasurer of the United States, shall be counted as a part of the lawful reserve.

99. *United States Note Certificates Counted as Reserve* (Sec. 5193). The Secretary of the Treasury may receive United States notes on deposit, without interest, from any national banking associations, in sums of not less than \$10,000, and issue certificates therefor in such form as he may prescribe, in denominations of not less than \$5,000, and payable on demand in United States notes at the place where the deposits were made. The notes so deposited shall not be counted as



part of the lawful-money reserve of the association; but the certificates issued therefor may be counted as part of its lawful-money reserve, and may be accepted in the settlement of clearing-house balances at the places where the deposits therefor were made. (Repealed March 14, 1900.)

100. *Redemption of Such Certificates* (Sec. 5194).—The power conferred on the Secretary of the Treasury, by the preceding section, shall not be exercised so as to create any expansion or contraction of the currency; and the United States notes for which certificates are issued under that section, or other United States notes of like amount, shall be held as special deposits in the Treasury and used only for redemption of such certificates.

101. *United States Gold Certificates Counted as Reserve*.—Section 12 of the act of July 12, 1882, provides that the Secretary of the Treasury is authorized and directed to receive deposits of gold coin with the Treasurer or assistant treasurers of the United States, in sums not less than \$20, and to issue certificates therefor in denominations of not less than \$20 each, corresponding with the denominations of United States notes. The coin deposited for or representing the certificates of deposit shall be retained in the Treasury for the payment of the same on demand. Said certificates shall be receivable for customs, taxes, and all public dues, and when so received may be reissued; and such certificates, as also silver certificates, when held by any national banking association, shall be counted as part of its lawful reserve; and no national banking association shall be a member of any clearing house in which such certificates shall not be receivable in the settlement of clearing-house balances: Provided, That the Secretary of the Treasury shall suspend the issue of such gold certificates whenever the amount of gold coin and gold bullion in the Treasury reserved for the redemption of United States notes falls below \$100,000,000; and the provisions of Section 5207 of the Revised Statutes shall be applicable to the certificates herein authorized and directed to be issued.

102. *Reserve Requirements for Gold Banks* (Sec. 5186).—Every association organized for the purpose of issuing notes payable in gold shall at all times keep on hand not less than twenty-five per centum of its outstanding circulation, in gold or silver of the United States; and shall receive at par in the payment of debts the gold notes of every other such association which at the time of such payment is redeeming its circulating notes in gold coin of the United States, and shall be subject to all the provisions of this title: Provided, That, in applying the same to associations organized for issuing gold notes, the terms "lawful money" and "lawful money of the United States" shall be construed to mean gold or silver coin of the United States; and the circulation of such association shall not be within the limitation of circulation mentioned in this title.

103. *Reserve Deposit in Central Reserve City* (Sec. 5195).—Each association organized in any of the cities named in Section 5191 may keep one-half of its lawful-money reserve in cash deposits in the city of New York. But the foregoing provision shall not apply to associations organized and located in the city of San Francisco for the purpose of issuing notes payable in gold. This section shall not relieve any association from its liability to redeem its circulating notes at its own counter at par in lawful money on demand.

104. *Additional Reserve Cities*.—Section 1 of the act of March 3, 1887, provides that whenever three-fourths in number of the national banks located in any city of the United States having a population of fifty thousand people shall make application to the Comptroller of the Currency, in writing, asking that the name of the city in which such banks are located shall be added to the cities named in Sections 5191 and 5192 of the Revised Statutes, the Comptroller shall have authority to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of its deposits, as provided in Sections 5191 and 5195 of the Revised Statutes.

105. *Additional Central Reserve Cities*.—Section 2 of the act of March 3, 1887, provides that whenever three-fourths in number of the national banks located in any city of the United States having a population of two hundred thousand people shall make application to the Comptroller of the Currency, in writing, asking that such city may be a central reserve city, like the city of New York, in which one-half of the lawful-money reserve of the national banks located in other reserve cities may be deposited, as provided in Section 5195 of the Revised Statutes, the Comptroller shall have authority, with the approval of the Secretary of the Treasury, to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, twenty-five per centum of its deposits, as provided in Section 5191 of the Revised Statutes.

106. *Real Estate* (Sec. 5137).—A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

FIRST. Such as shall be necessary for its immediate accommodation in the transaction of its business.

SECOND. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

THIRD. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

FOURTH. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate



purchased to secure any debts due\* to it, for a longer period than five years.

107. *Interest* (Sec. 5197).—Any association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the state, territory, or district where the bank is located, and no more, except that where by the laws of any state a different rate is limited for banks of issue organized under state laws, the rate so limited shall be allowed for associations organized or existing in any such state under this title. When no rate is fixed by the laws of the state, territory, or district, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days from which the note, bill, or other evidence of debt has to run. And the purchase, discount, or sale of a *bona-fide* bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

108. *Penalty for Unlawful Interest* (Sec. 5198).—The taking, receiving, reserving, or charging a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same, provided such action is commenced within two years from the time the usurious transaction occurred.

109. *Surplus and Dividends* (Sec. 5199).—The directors of any association may semiannually declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

110. *Restriction on Loans* (Sec. 5200).—The total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of such association actually paid in. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

111. *Associations Must Not Hold Their Own Stock* (Sec. 5201).—No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to Section 5234.

112. *Restriction on Bank's Liability* (Sec. 5202).—No association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

FIRST. Notes of circulation.

SECOND. Moneys deposited with or collected by the association.

THIRD. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

FOURTH. Liabilities to the stockholders of the association for dividends and reserve profits.

113. *Improper Use of Bank Circulation* (Sec. 5203).—No association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

114. *Unearned Dividends Prohibited* (Sec. 5204).—No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any associations, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section. But nothing in this section shall prevent the reduction of the capital stock of the association under Section 5143.

115. *Assessment for Impairment of Capital* (Sec. 5205).—Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency,



pay the deficiency in the capital stock, by assessment upon the shareholders *pro rata* for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the Comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of Section 5234.

116. *Provision for Enforcement of Assessment.*—Section 4 of the act of June 30, 1876, provides that if any shareholder or shareholders of a bank shall neglect or refuse, after three months' notice, to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days' notice shall be given by posting such notice of sale in the office of the bank and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto) to make good the deficiency; and the balance, if any, shall be returned to such delinquent shareholder or shareholders.

117. *Prohibition Against Uncurrent Notes* (Sec. 5206).—No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation the notes of any bank or banking association which are not, at any such time, receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall any association knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

118. *List of Shareholders* (Sec. 5210).—The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under state authority, during business hours of each day in which business may be legally transacted. A copy of such list, on the first Monday of July of each year, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency.

119. *Reports of Conditions* (Sec. 5211).—Every association shall make to the Comptroller of the Currency not less than five reports

during each year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signatures of at least three of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the associations at the close of business on any past day by him specified, and shall be transmitted to the Comptroller within five days after the receipt of a request or requisition therefor from him, and in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be required by the Comptroller. The Comptroller shall also have power to call for special reports from any particular association whenever in his judgment the same are necessary in order to a full and complete knowledge of its condition.

120. *Verification of Such Reports.*—The act of February 26, 1881, provides that the oath or affirmation required by Section 5211 of the Revised Statutes, verifying the returns made by national banks to the Comptroller of the Currency, when taken before a notary public properly authorized and commissioned by the state in which such notary resides and the bank is located, or any other officer having an official seal, authorized in such state to administer oaths, shall be a sufficient verification as contemplated by said Section 5211: Provided, That the officer administering the oath is not an officer of the bank.

121. *Reports of Dividends and Earnings* (Sec. 5212).—In addition to the reports required by the preceding section, each association shall report to the Comptroller of the Currency, within ten days after declaring any dividend, the amount of such dividend and the amount of net earnings in excess of such dividend. Such reports shall be attested by the oath of the president or cashier of the association.

122. *Penalty for Failure to Report* (Sec. 5213).—Every association which fails to make and transmit any report required under either of the two preceding sections shall be subject to a penalty of \$100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

123. *Reports of Other Banks.*—Section 6 of the act of June 30, 1876, as amended by acts of March 3, 1901, and June 30, 1902, provides that all banks or savings companies or institutions organized under authority



of any act of Congress to do business in the District of Columbia shall be, and are hereby, required to make to the Comptroller of the Currency, and publish, all the reports which national banking associations are required to make and publish, under the provisions of Sections 5211, 5212, and 5213, of the Revised Statutes, and shall be subject to the same penalties for failure to make or publish such reports as are therein provided, which penalties may be collected by suit before the supreme court of the District of Columbia.

124. *State Taxation of National Banks* (Sec. 5219).—Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the state within which the association is located; but the legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to the two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either state, county, or municipal taxes, to the same extent, according to its value, as other real property is taxed.

125. *National-Bank Examiners* (Sec. 5240).—The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall, as often as shall be deemed necessary or proper, appoint a suitable person or persons to make an examination of the affairs of every banking association, who shall have power to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the Comptroller.

126. *Qualification for Examiner* (Sec. 5240).—But no person shall be appointed to examine the affairs of any banking association of which he is a director or other officer.

127. *Compensation of Examiners* (Sec. 5240).—All persons appointed to be examiners of national banks not located in the redemption cities specified in Section 5192 of the Revised Statutes of the United States, or in any one of the states of Oregon, California, and Nevada, or in the territories, shall receive compensation for such examination as follows: For examining national banks having a capital less than \$100,000, \$20; those having a capital of \$100,000 and less than \$300,000, \$25; those having a capital of \$300,000 and less than \$400,000, \$35; those having a capital of \$400,000 and less than \$500,000, \$40; those having a capital of \$500,000 and less than \$600,000, \$50; those having a capital of \$600,000 and over, \$75; which amounts shall be assessed

by the Comptroller of the Currency upon, and paid by, the respective association so examined, and shall be in lieu of the compensation and mileage heretofore allowed for making said examinations; and the persons appointed to make examinations of national banks in the cities named in Section 5192 of the Revised Statutes of the United States, or in any one of the states of Oregon, California, and Nevada, or in the territories, shall receive such compensation as may be fixed by the Secretary of the Treasury upon the recommendation of the Comptroller of the Currency; and the same shall be assessed and paid in the manner hereinbefore provided.

128. *Examinations in District of Columbia* (Sec. 332).—The Comptroller of the Currency, in addition to the powers conferred upon him by law for the examination of national banks, is further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank in the District of Columbia organized under act of Congress. The Comptroller, at his discretion, may report to Congress the results of such examination. The expense necessarily incurred in any such examination shall be paid out of any appropriation made by Congress for special bank examinations.

129. *Limitation of Visitorial Powers* (Sec. 5241).—No association shall be subject to any visitorial powers other than such as are authorized by this title, or are vested in the courts of justice.

130. *Use of "National" in Titles* (Sec. 5243).—All banks not organized and transacting business under the national currency laws, or under this title, and all persons or corporations doing the business of bankers, brokers, or savings institutions, except savings banks authorized by Congress to use the word "national" as a part of their corporate name, are prohibited from using the word "national" as a portion of the name or title of such bank, corporation, firm, or partnership; and any violation of this prohibition committed after the 3d day of September, 1873, shall subject the party chargeable therewith to a penalty of \$50 for each day during which it is permitted or repeated.

## CHAPTER VI

### EXTENSION OF CORPORATE EXISTENCE

131. *Corporate Existence May Be Extended*.—The act of July 12, 1882, provides: (Sec. 1.)—That any national banking association organized under the acts of February 25, 1863, June 3, 1864, and February 14, 1880, or under Sections 5133, 5134, 5135, 5136, and 5154 of the Revised Statutes of the United States, may, at any time within the two years next previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted as hereinafter provided, extend its period of succession by amending its articles of association for a term of not more than twenty years from the expiration of the period of



succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law, or unless hereafter modified or repealed.

132. *Consent of Two-Thirds Necessary* (Sec. 2).—That such amendment of said articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified under the seal of the association, by its president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions required to be complied with and is authorized to have succession for the extended period named in the amended articles of association.

133. *Special Examination of Bank* (Sec. 3).—That upon the receipt of the application and certificate of the association provided for in the preceding section, the Comptroller of the Currency shall cause a special examination to be made, at the expense of the association, to determine its condition; and if after such examination or otherwise it appears to him that said association is in a satisfactory condition, he shall grant his certificate of approval provided for in the preceding section, or if it appears that the condition of said association is not satisfactory, he shall withhold such certificate of approval.

134. *Status Not Changed by Extension* (Sec. 4).—That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession.

135. *Dissenting Shareholders May Withdraw* (Sec. 5).—That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not assenting to such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; and in case the value so fixed shall not

be satisfactory to any such shareholder, he may appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee, the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due, and be forthwith paid, to said shareholder, from said bank; and the shares so surrendered and appraised shall, after due notice, be sold at public sale, within thirty days after the final appraisal provided in this section: Provided, That in the organization of any banking association intended to replace any existing banking association, and retaining the name thereof, the holders of stock in the expiring association shall be entitled to preference in the allotment of the shares of the new association in proportion to the number of shares held by them, respectively, in the expiring association.

136. *Reextension of Corporate Existence.*—The act of Congress, approved April 12, 1902, provides that the Comptroller of the Currency is hereby authorized in the manner provided by, and under the conditions and limitations of the act of July 12, 1882, to extend for a further period of twenty years the charter of any national banking association extended under said act which shall desire to continue its existence after the expiration of its charter.

## CHAPTER VII

### LIQUIDATION AND RECEIVERSHIP

137. *Two-Thirds Vote Required for Liquidation* (Sec. 5220).—Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock.

138. *Notice of Voluntary Liquidation* (Sec. 5221).—Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and the publication thereof to be made for a period of two months in a newspaper published in the city of New York, and also in a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying the holders of its notes and other creditors to present the notes and other claims against the association for payment.

139. *Deposit of Lawful Money* (Sec. 5222).—Within six months from the date of the vote to go into liquidation the association shall deposit with the Treasurer of the United States lawful money of the United States sufficient to redeem all its outstanding circulation. The Treasurer shall execute duplicate receipts for money thus deposited, and deliver one to the association and the other to the Comptroller of



the Currency, stating the amount received by him, and the purpose for which it has been received; and the money shall be paid into the Treasury of the United States, and placed to the credit of such association upon redemption account.

140. *No Deposit Required for Consolidation* (Sec. 5223).—An association which is in good faith winding up its business for the purpose of consolidating with another association shall not be required to deposit lawful money for its outstanding circulation; but its assets and liabilities shall be reported by the association with which it is in process of consolidation.

141. *Bonds of Liquidating Banks* (Sec. 5224).—Whenever a sufficient deposit of lawful money to redeem the outstanding circulation of an association proposing to close its business has been made, the bonds deposited by the association to secure payment of its notes shall be reassigned to it, in the manner prescribed by Section 5162. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and those notes shall be redeemed at the Treasury of the United States. And if any such bank shall fail to make the deposit and take up its bonds for thirty days after the expiration of the time specified, the Comptroller of the Currency shall have power to sell the bonds pledged for the circulation of said bank at public auction in New York City, and, after providing for the redemption and cancelation of said circulation, and the necessary expenses of the sale, to pay over any balance remaining to the bank or its legal representatives.

142. *Banks Whose Existence Has Expired*.—Section 7 of the act of July 12, 1882, provides that national banking associations whose corporate existence has expired or shall hereafter expire, and which do not avail themselves of the provisions of this act, shall be required to comply with the provisions of Sections 5221 and 5222 of the Revised Statutes in the same manner as if the shareholders had voted to go into liquidation, as provided in Section 5220 of the Revised Statutes; and the provisions of Sections 5224 and 5225 of the Revised Statutes shall also be applicable to such associations, except as modified by this act and the franchise of such associations is hereby extended for the sole purpose of liquidating their affairs until such affairs are finally closed.

143. *Protest of Bank Circulation* (Sec. 5226).—Whenever any national banking association fails to redeem in the lawful money of the United States any of its circulating notes, upon demand of payment duly made during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package by a notary public, unless the president or cashier of the association whose notes are presented for payment offers to waive demand and notice of the protest, and, in pursuance of such offer, makes, signs, and delivers to the party making such demand an admission in writing, stating the time of the demand, the amount

demand, and the fact of the non-payment thereof. The notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof. If, however, satisfactory proof is produced to the notary public that the payment of the notes demanded is restrained by order of any court of competent jurisdiction, he shall not protest the same. When the holder of any notes causes more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

144. *Bonds Forfeited if Circulation Is Dishonored* (Sec. 5227).—On receiving notice that any national banking association has failed to redeem any of its circulating notes, as specified in the preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, of whose appointment immediate notice shall be given to such association, who shall immediately proceed to ascertain whether it has refused to pay its circulating notes in the lawful money of the United States, when demanded, and shall report to the Comptroller the fact so ascertained. If from such protest, and the report so made, the Comptroller is satisfied that such association has refused to pay its circulating notes and is in default, he shall, within thirty days after he has received notice of such failure, declare the bonds deposited by such association forfeited to the United States, and they shall thereupon be so forfeited.

145. *Bank May Enjoin Further Proceedings* (Sec. 5237).—Whenever an association against which proceedings have been instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, denies having failed to do so, it may, at any time within ten days after it has been notified of the appointment of an agent, as provided in Section 5227, apply to the nearest circuit, district, or territorial court of the United States to enjoin further proceedings in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of the jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

146. *Where Proceedings Must Be Brought* (Sec. 736).—All proceedings by any national banking association to enjoin the Comptroller of the Currency, under the provisions of any law relating to national banking associations, shall be had in the district where such association is located.

147. *Suspension of Business After Default* (Sec. 5228).—After a default on the part of an association to pay any of its circulating notes has been ascertained by the Comptroller, and notice thereof has been



given by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits.

148. *Notice to Present Circulation for Redemption* (Sec. 5229).—Immediately upon declaring the bonds of an association forfeited for non-payment of its notes, the Comptroller shall give notice, in such manner as the Secretary of the Treasury shall by general rules or otherwise direct, to the holders of the circulating notes of such association, to present them for payment at the Treasury of the United States; and the same shall be paid as presented in lawful money of the United States; whereupon the Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid.

149. *Bonds Sold at Public Auction* (Sec. 5230).—Whenever the Comptroller has become satisfied, by the protest or the waiver and admission specified in Section 5226, or by the report provided for in Section 5227, that any association has refused to pay its circulating notes, he may, instead of canceling its bonds, cause so much of them as may be necessary to redeem its outstanding notes to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to the association.

150. *First Lien for Redeeming Circulation* (Sec. 5230).—For any deficiency in the proceeds of all the bonds of an association, when thus sold, to reimburse to the United States the amount expended in paying the circulating notes of the association, the United States shall have a paramount lien upon all its assets; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

151. *Bonds Sold at Private Sale* (Sec. 5231).—The Comptroller may, if he deems it for the interest of the United States, sell at private sale any of the bonds of an association shown to have made default in paying its notes, and receive therefor either money or the circulating notes of the association. But no such bonds shall be sold by private sale for less than par, nor for less than the market value thereof at the time of sale; and no sales of any such bonds, either public or private, shall be complete until the transfer of the bonds shall have been made with the formalities prescribed by Sections 5162, 5163, and 5164.

152. *Appointment and Duties of Receiver* (Sec. 5234).—On becoming satisfied, as specified in Sections 5226 and 5227, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the Comptroller, shall

take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

153. *When Receiver May Be Appointed.*—Section 1 of the act of June 30, 1876, provides that whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in Section 5239 of the Revised Statutes of the United States, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied of the insolvency of the national banking association, he may, after due examination of its affairs, in either case, appoint a receiver, who shall proceed to close up such association, and enforce the personal liability of the shareholders, as provided in Section 5234 of said statutes.

A receiver may also be appointed, under the provisions of Section 5234 of the Revised Statutes of the United States, for the following violations of law:

Where the capital stock of a national bank has not been fully paid in and it is thus reduced below the legal minimum and remains so for thirty days. (Sec. 5141, R. S.)

For failure to make good the lawful-money reserve within thirty days after notice. (Sec. 5191, R. S.)

Where a bank purchases or acquires its own stock, other than to prevent loss upon a debt previously contracted in good faith, and the same is not sold or disposed of within six months from the time of its purchase. (Sec. 5201, R. S.)

For failure to make good any impairment in its capital stock and refusing to go into liquidation within three months after receiving notice. (Sec. 5205, R. S.)

For false certification of checks by any officer, clerk, or agent. (Sec. 5208, R. S.)

154. *Notice to Creditors of Insolvent Banks* (Sec. 5235).—The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same and to make legal proof thereof.



155. *Distribution of Assets of Insolvent Banks* (Sec. 5236).—From time to time, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association, the Comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

156. *Expenses of Receivership, How Paid* (Sec. 5238).—All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees. All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

157. *Forfeiture of Charter* (Sec. 5239).—If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate, any of the provisions of this title, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved.

158. *Individual Liability of Directors* (Sec. 5239).—And in cases of such violation every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person shall have sustained in consequence of such violation.

159. *Receiver May Purchase Property to Protect His Trust*.—The act of March 29, 1886, provides:

SEC. 1. That whenever the receiver of any national bank duly appointed by the Comptroller of the Currency, and who shall have duly qualified and entered upon the discharge of his trust, shall find it in his opinion necessary, in order to fully protect and benefit his said trust, to the extent of any and all equities that such trust may have in any property, real or personal, by reason of any bond, mortgage, assignment, or other proper legal claim attaching thereto, and which said property is to be sold under any execution, decree of foreclosure, or proper order of any court of jurisdiction, he may certify the facts in the case, together with his opinion as to the value of the property to

be sold and the value of the equity his said trust may have in the same, to the Comptroller of the Currency, together with a request for the right and authority to use and employ so much of the money of said trust as may be necessary to purchase such property at such sale.

SEC. 2. That such request, if approved by the Comptroller of the Currency, shall be, together with the certificate of facts in the case and his recommendation as to the amount of money which in his judgment should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him the request shall be by the Comptroller of the Currency allowed, and notice thereof, with copies of the request, certificate of facts, and indorsement of approvals, shall be filed with the Treasurer of the United States.

SEC. 3. That whenever any such request shall be allowed as hereinbefore provided, the said Comptroller of the Currency shall be, and is, empowered to draw upon and from such funds of any such trust as may be deposited with the Treasurer of the United States for the benefit of the bank in interest to the amount as may be recommended and allowed and for the purpose for which such allowance was made: Provided, however, That all payments to be made for or on account of the purchase of any such property and under any such allowance shall be made by the Comptroller of the Currency direct, with the approval of the Secretary of the Treasury, for such purpose only and in such manner as he may determine and order.

160. *Taxes on Insolvent National Banks Remitted.*—The act of March 1, 1879, provides that whenever and after any bank has ceased to do business by reason of insolvency or bankruptcy no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall so appear to him, is authorized to remit so much of said tax against insolvent state and savings banks as shall be found to affect the claims of their depositors.

161. *Appointment and Qualification of Shareholders' Agent.*—Section 3 of the act of June 30, 1876, as amended by acts of August 3, 1892, and March 2, 1897, provides that whenever any association shall have been or shall be placed in the hands of a receiver, as provided in Section 5234 and other sections of the Revised Statutes of the United States, and when, as provided in Section 5236 thereof, the Comptroller of the Currency shall have paid to each and every creditor of such association, not including shareholders who are creditors of such association, whose claim or claims as such creditor shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership and the redemption of



the circulating notes of such association shall have been provided for by depositing lawful money of the United States with the Treasurer of the United States, the Comptroller of the Currency shall call a meeting of the shareholders of such association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of such association was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of such association, or whether an agent shall be elected for that purpose, and in so determining the said shareholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in value and number of shares shall be necessary to determine whether the said receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the said receiver shall be continued, the said receiver shall thereupon proceed with the execution of his trust, and shall sell, dispose of, or otherwise collect the assets of the said association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed upon him by his appointment as such receiver, so far as the same remain applicable. In case the said meeting shall, by the vote of a majority of the stock in value and number of shares, determine that an agent shall be elected, the said meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in value and number shall be declared the agent for the purposes hereinafter provided; and whenever any of the shareholders of the association shall, after the election of such agent, have executed and filed a bond to the satisfaction of the Comptroller of the Currency, conditioned for the payment and discharge in full of each and every claim that may thereafter be proved and allowed by and before a competent court, and for the faithful performance of all and singular the duties of such trust, the Comptroller and the receiver shall thereupon transfer and deliver to such agent all the undivided or uncollected or other assets of such association then remaining in the hands or subject to the order and control of said Comptroller and said receiver, or either of them; and for this purpose said Comptroller and said receiver are hereby severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to the said agent the Comptroller and the said receiver shall by virtue of this act be discharged from any and all liabilities to such association and to each and all creditors and shareholders thereof.

162. *Duties of Shareholders' Agent.*—Section 3 of the act of June 30, 1876, as amended by acts of August 3, 1892, and March 2,

1897, provides: Upon receiving such deed, assignment, transfer, or other instrument, the person elected such agent shall hold, control, and dispose of the assets and property of such association which he may receive under the terms hereof for the benefit of shareholders of such association, and he may in his own name, or in the name of such association, sue and be sued, and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to such association, with the consent and approval of the circuit or district courts of the United States for the district where the business of such association was carried on, and shall, at the conclusion of his trust, render to such district or circuit court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge said agent and the sureties upon said bond. And in case any such agent so elected shall refuse to serve, or die, resign, or be removed, any shareholder may call a meeting of the shareholders of such association in the town, city, or village where the business of the said association was carried on, by giving notice thereof for thirty days in a newspaper published in said town, city, or village; or, if no newspaper is there published, in the newspaper published nearest thereto, at which meeting the shareholders shall elect an agent, voting by ballot, in person, or by proxy, each share of stock entitling the holder to one vote, and when such agent shall have received votes representing at least a majority of the stock in value and number of shares, and shall have executed a bond to the shareholders conditioned for the faithful performance of his duties, in the penalty fixed by the shareholders at said meeting, with two sureties, to be approved by a judge of a court of record, and file said bond in the office of the clerk of a court of record in the county where the business of said association was carried on, he shall have all the rights, powers, and duties of the agent first elected as hereinbefore provided. At any meeting held, as hereinbefore provided, administrators or executors of deceased shareholders may act and sign as the decedent might have done if living, and guardians of minors and trustees of other persons may so act and sign for their ward or wards or *cestuis que trust*. The proceeds of the assets or property of any such association which may be undistributed at the time of such meeting, or may be subsequently received, shall be distributed as follows:

FIRST. To pay the expenses of the execution of the trust to the date of such payment.

SECOND. To repay any amount or amounts which have been paid in by any shareholder or shareholders of such association upon and by reason of any and all assessments made upon the stock of such association by the order of the Comptroller of the Currency in accordance with the provisions of the statutes of the United States; and



**THIRD.** The balance ratably among such stockholders, in proportion to the number of shares held and owned by each. Such distribution shall be made from time to time as the proceeds shall be received and as shall be deemed advisable by the said Comptroller or said agent.

163. *Illegal Preference of Creditors* (Sec. 5242).—All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void. No attachment, injunction, or execution shall be issued against such association or its property before final judgment in any suit, action, or proceeding in state, county, or municipal court.

164. *Creditor's Bill Against Shareholders*.—Section 2 of the act of June 30, 1876, provides that when any national banking association shall have gone into liquidation under the provisions of Section 5220 of said statutes, the individual liability of the shareholders provided for by Section 5151 of said statutes may be enforced by any creditor of such association, by bill in equity in the nature of a creditor's bill, brought by such creditor on behalf of himself and all other creditors of the association, against the shareholders thereof, in any court of the United States having original jurisdiction in equity for the district in which such association may have been located or established.

## CHAPTER VIII

### CRIMES, JURISDICTION, ETC.

165. *Penalty for Improper Countersigning or Delivering Circulation* (Sec. 5187).—No officer acting under the provisions of this title shall countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this title, except in accordance with the true intent and meaning of its provisions. Every officer who violates this section shall be deemed guilty of a high misdemeanor, and shall be fined not more than double the amount so countersigned and delivered, and imprisoned not less than one year and not more than fifteen years.

166. *Penalty for Pledging United States Notes or Bank Circulation* (Sec. 5207).—No association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the same

from use, or offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money. Any association offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined not more than \$1,000 and a further sum equal to one-third of the money so loaned. The officer or officers of any association who shall make any such loan shall be liable for a further sum equal to one-quarter of the money loaned; and any fine or penalty incurred by a violation of this section shall be recoverable for the benefit of the party bringing such suit. Section 12 of the act of July 12, 1882, provides that the provisions of this section shall apply to the United States certificates of gold and silver coin.

167. *Penalty for Imitating Bank Circulation for Advertising Purposes* (Sec. 5188).—It shall not be lawful to design, engrave, print, or in any manner make or execute, or to utter, issue, distribute, circulate, or use any business or professional card, notice, placard, circular, handbill, or advertisement in the likeness or similitude of any circulating note or other obligation or security of any banking association organized or acting under the laws of the United States which has been or may be issued under this title, or any act of Congress, or to write, print, or otherwise impress upon any such note, obligation, or security any business or professional card, notice, or advertisement, or any notice or advertisement of any matter or thing whatever. Every person who violates this section shall be liable to a penalty of \$100, recoverable one-half to the use of the informer.

168. *Penalty for Mutilating Circulation* (Sec. 5189).—Every person who mutilates, cuts, defaces, disfigures, or perforates with holes, or unites or cements together, or does any other thing to any bank bill, draft, note, or other evidence of debt, issued by any national banking association, or who causes or procures the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall be liable to a penalty of \$50, recoverable by the association.

169. *Penalty for Counterfeiting Circulation* (Sec. 5415).—Every person who falsely makes, forges, or counterfeits, or causes or procures to be made, forged, or counterfeited, or willingly aids or assists in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be in imitation of, the circulating notes issued by any banking association now or hereafter authorized and acting under the laws of the United States, or who passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited note purporting to be issued by any such association doing a banking business, knowing the same to be falsely made, forged, or counterfeited, or who falsely alters, or causes or procures to be falsely altered, or willingly aids or assists in falsely altering any such circulating notes, or passes, utters, or publishes, or attempts to pass, utter, or



publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, by any such banking association, knowing the same to be falsely altered or spurious, shall be imprisoned at hard labor not less than five years nor more than fifteen years, and fined not more than \$1,000.

170. *What Are Obligations of the United States* (Sec. 5413).—The words "obligation or other security of the United States" shall be held to mean all bonds, certificates of indebtedness, national bank currency, coupons, United States notes, Treasury notes, fractional notes, certificates of deposit, bills, checks, or drafts for money drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, which have been or may [be] issued under any act of Congress.

171. *Penalty for Illegal Possession or Use of Material for Circulation* (Sec. 5430).—Every person having control, custody, or possession of any plate, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purposes of printing, any obligation or other security of the United States, who uses such plate, or knowingly suffers the same to be used for the purpose of printing any such or similar obligation, or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof; and every person who engraves, or causes or procures to be engraved, or assists in engraving, any plate in the likeness of any plate designed for the printing of such obligation or other security, or who sells any such plate, or who brings into the United States from any foreign place any such plate, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate be used for the printing of the obligations or other securities of the United States; or who has in his control, custody, or possession any metallic plate engraved after the similitude of any plate from which any such obligation or other security has been printed, with intent to use such plate, or suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or who has in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security, engraved and printed after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; and every person who prints, photographs, or in any other manner makes or executes, or causes to be printed, photographed, made, or executed, or aids in printing, photographing, making, or executing any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or who sells any such engraving, photograph, print, or impression, except to the United States, or who brings into the United States from any foreign place

any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States, or who has or retains in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States, shall be punished by a fine of not more than \$5,000, or by imprisonment at hard labor not more than fifteen years, or by both.

172. *Penalty for Passing Counterfeit Circulation* (Sec. 5431). Every person who, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States with intent to pass, publish, utter, or sell, or keeps in possession or conceals, with like intent, any falsely made, forged, counterfeited, or altered obligation, or other security of the United States, shall be punished by a fine of not more than \$5,000 and by imprisonment at hard labor not more than fifteen years.

173. *Penalty for Taking Unauthorized Impression of Tools* (Sec. 5432).—Every person who, without authority from the United States, takes, procures, or makes, upon lead, foil, wax, plaster, paper, or any other substance or material, an impression, stamp, or imprint of, from, or by the use of, any bedplate, bedpiece, die, roll, plate, seal, type, or other tool, implement, instrument, or thing used or fitted, or intended to be used, in printing, stamping, or impressing, or in making other tools, implements, instruments, or things, to be used, or fitted, or intended to be used, in printing, stamping, or impressing any kind or description of obligation or other security of the United States, now authorized or hereafter to be authorized by the United States, or circulating note or evidence of debt of any banking association under the laws thereof, shall be punished by imprisonment at hard labor not more than ten years, or by a fine of not more than \$5,000, or both.

174. *Penalty for Having Such Impressions* (Sec. 5433).—Every person who, with intent to defraud, has in his possession, keeping, custody, or control, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument, or thing used, or fitted, or intended to be used for any of the purposes mentioned in the preceding section; or who, with intent to defraud, sells, gives, or delivers any such imprint, stamp, or impression to any other person, shall be punished by imprisonment at hard labor not more than ten years, or by a fine of not more than \$5,000.

175. *Penalty for Dealing in Counterfeit Circulation* (Sec. 5434). Every person who buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other



security of the United States, or circulating note of any banking association organized or acting under the laws thereof, which has been or may hereafter be issued by virtue of any act of Congress, with the intent that the same be passed, published, or used as true and genuine, shall be imprisoned at hard labor not more than ten years, or fined not more than \$5,000, or both.

176. *Penalty for Issuing Circulation of Expired Associations* (Sec. 5437).—In all cases where the charter of any corporation which has been or may be created by act of Congress has expired or may hereafter expire, if any director, officer, or agent of the corporation, or any trustee thereof or any agent of such trustee, or any person having in his possession or under his control the property of the corporation for the purpose of paying or redeeming its notes and obligations, knowingly issues, reissues, or utters as money, or in any other way knowingly puts in circulation any bill, note, check, draft, or other security purporting to have been made by any such corporation whose charter has expired, or by any officer thereof, or purporting to have been made under authority derived therefrom, or if any person knowingly aids in any such act, he shall be punished by a fine of not more than \$10,000, or by imprisonment not less than one year nor more than five years, or by both such fine and imprisonment. But nothing herein shall be construed to make it unlawful for any person, not being such director, officer, or agent of the corporation, or any trustee thereof, or any agent of such trustee, or any person having in his possession or under his control the property of the corporation for the purpose hereinbefore set forth, who has received or may hereafter receive such bill, note, check, draft, or other security, *bona fide* and in the ordinary transactions of business, to utter as money and otherwise circulate the same.

177. *False Certification of Checks* (Sec. 5208).—It shall be unlawful for any officer, clerk, or agent of any national banking association to certify any check drawn upon the association unless the person or company drawing the check has on deposit with the association, at the time such check is certified, an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against the association; but the act of any officer, clerk, or agent of any association, in violation of this section, shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in Section 5234.

178. *Penalty for False Certification of Checks*.—Section 13 of the act of July 12, 1882, provides that any officer, clerk, or agent of any national banking association who shall wilfully violate the provisions of Section 5208 of the Revised Statutes of the United States, or who shall resort to any device, or receive any fictitious obligation, direct or collateral, in order to evade the provisions thereof, or who shall

certify checks before the amount thereof shall have been regularly entered to the credit of the dealer upon the books of the banking association, shall be deemed guilty of a misdemeanor and shall, on conviction thereof in any circuit or district court of the United States, be fined not more than \$5,000, or shall be imprisoned not more than five years, or both, in the discretion of the court.

179. *Penalty for Official Malfeasance* (Sec. 5209).—Every president, director, cashier, teller, clerk, or agent of any association who embezzles, abstracts, or wilfully misapplies any of the moneys, funds, or credits of the association, or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

180. *Jurisdiction of Circuit Courts to Enjoin Comptroller* (Sec. 629).—The circuit courts shall have original jurisdiction of all suits brought by any banking association established in the district for which the court is held, under the provisions of title "The National Banks," to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by said title.

181. *General Jurisdiction of National-Bank Cases*.—Section 4 of the act of July 12, 1882, provides that the jurisdiction for suits hereafter brought by or against any association established under any law providing for national banking associations, except suits between them and the United States or its officers and agents, shall be the same as, and not other than, the jurisdiction for suits by or against banks not organized under any law of the United States which do or might do banking business where such national banking associations may be doing business when such suits may be begun. And all laws and parts of laws of the United States inconsistent with this proviso be, and the same are hereby, repealed. Section 4 of the act of March 3, 1887, provides that all national banking associations established under the laws of the United States shall, for the purposes of all actions by or against them, real, personal, or mixed, and all suits in equity, be deemed citizens of the states in which they are respectively located; and in such cases the circuit and district courts shall not have jurisdiction other than such as they would have in cases between individual citizens



of the same state. The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases commenced by the United States or by direction of any officer thereof, or cases for winding up the affairs of any such bank.

182. *Sealed Certificates of Comptroller Are Competent Evidence* (Sec. 884).—Every certificate, assignment, and conveyance executed by the Comptroller of the Currency, in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

183. *Certified Copy of Organization Certificate as Evidence* (Sec. 885).—Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association and of every matter which could be proved by the production of the original certificate.

184. *Suits Against United States Officers or Agents* (Sec. 380). All suits and proceedings arising out of the provisions of law governing national banking associations, in which the United States or any of its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts under the direction and supervision of the Solicitor of the Treasury.

185. *Indian Territory*.—Section 31 of the act of May 2, 1890, provides that all laws relating to national banking associations shall have the same force and effect in the Indian Territory as elsewhere in the United States.

## CHAPTER IX

### TRUST COMPANIES, ETC., DISTRICT OF COLUMBIA

186. *Provision for Organization*.—The act of October 1, 1890, Section 1, provides that corporations may be formed within the District of Columbia for the purposes hereinafter mentioned in the following manner: Any time hereafter any number of natural persons, citizens of the United States, not less than twenty-five, may associate themselves together to form a company for the purpose of carrying on in the District of Columbia any one of the three classes of business herein specified, to wit:

FIRST. A safe-deposit, trust, loan, and mortgage business.

SECOND. A title-insurance, loan, and mortgage business.

THIRD. A security, guaranty, indemnity, loan, and mortgage business: Provided, That the capital stock of any of said companies shall not be less than \$1,000,000: Provided further, That any of said companies may also do a storage business when their capital stock amounts to the sum of not less than \$1,200,000.

187. *Organization Certificate of Company* (Sec. 2).—That such persons shall, under their hands and seals, execute, before some officer in said District competent to take the acknowledgment of deeds, an organization certificate, which shall specifically state:

FIRST. Title.—The name of the corporation.

SECOND. Purposes.—The purposes for which it is formed.

THIRD. Period of Existence.—The term for which it is to exist, which shall not exceed the term of fifty years, and be subject to alteration, amendment, or repeal by Congress at any time.

FOURTH. Officers.—The number of its directors, and the names and residences of the officers who for the first year are to manage the affairs of the company.

FIFTH. Capital Stock.—The amount of the capital stock and its subdivision into shares.

188. *Charter Obtained From District Commissioners* (Sec. 3). That this certificate shall be presented to the Commissioners of the District, who shall have power and discretion to grant or to refuse to said persons a charter of incorporation upon the terms set forth in the said certificate and the provisions of this act.

189. *Notice of Intention to Apply for a Charter* (Sec. 4).—That previous to the presentation of the said certificate to the said Commissioners notice of the intention to apply for such charter shall be inserted in two newspapers of general circulation printed in the District of Columbia at least four times a week for three weeks, setting forth briefly the name of the proposed company, its character and object, the names of the proposed corporators, and the intention to make application for a charter on a specified day, and the proof of such publication shall be presented with said certificate when presentation thereof is made to said Commissioners.

190. *Charter Filed With Recorder of Deeds for the District* (Sec. 5).—That if the charter be granted as aforesaid it, together with the certificate of the Commissioners granting the same indorsed thereon, shall be filed for record in the office of the recorder of deeds for the District of Columbia, and shall be recorded by him. On the filing of the said certificate with the said recorder of deeds as herein provided, approved as aforesaid by the said Commissioners, the persons named therein and their successors shall thereupon and thereby be and become a body corporate and politic, and as such shall be vested with all the powers and charged with all the liabilities conferred upon and imposed by this act upon companies organized under the provisions hereof: Provided, however, That no corporation created and organized under the provisions hereof, or availing itself of the provisions hereof as provided in Section 11, shall be authorized to transact the business of a trust company, or any business of a fiduciary character, until it shall have filed with the Comptroller of the Currency a copy of its certificate of organization and charter and shall have



obtained from him and filed the same for record with the said recorder of deeds a certificate that the capital stock of said company has been paid in and the deposit of securities made with said Comptroller in the manner and to the extent required by this act.

191. *Trust Companies Under Comptroller's Supervision* (Sec. 6). That all companies organized hereunder, or which shall under the provisions hereof become entitled to transact the business of a trust company, shall report to the Comptroller of the Currency in the manner prescribed by Sections 5211, 5212, and 5213, Revised Statutes of the United States, in the case of national banks, and all acts amendatory thereof or supplementary thereto, and with similar provisions for compensating examiners, and shall be subject to like penalties for failure to do so. The Comptroller shall have and exercise the same visitatorial powers over the affairs of the said corporation as is conferred upon him by Section 5240 of the Revised Statutes of the United States in the case of national banks. He shall also have power, when in his opinion it is necessary, to take possession of any such company for the reasons and in the manner and to the same extent as are provided in the laws of the United States with respect to national banks.

192. *Power of These Companies* (Sec. 7).—That all companies organized under this act are hereby declared to be corporations possessed of the powers and functions of corporations generally, and shall have power:

FIRST. Contracts.—To make contracts.

SECOND. Suits.—To sue and be sued, implead and be impleaded, in any court as fully as natural persons.

THIRD. Seal.—To make and use a common seal and alter the same at pleasure.

FOURTH. Loans.—To loan money.

FIFTH. Special Powers.—When organized under subdivision one of the first sections of this act to accept and execute trusts of any and every description which may be committed or transferred to them, and to accept the office and perform the duties of a receiver, assignee, executor, administrator, guardian of the estates of minors, with the consent of the guardian of the person of such minor, and committee of the estates of lunatics and idiots whenever any trusteeship or any such office or appointment is committed or transferred to them, with their consent, by any person, body politic or corporate, or by any court in the District of Columbia, and all such companies organized under the first subdivision of Section 1 of this act are further authorized to accept deposits of money for the purposes designated herein upon such terms as may be agreed upon from time to time with depositors, and to act as agent for the purpose of issuing or countersigning the bonds or obligations of any corporation, association, municipality, or state, or other public authority, and to receive and manage any sinking

fund on any such terms as may be agreed upon, and shall have power to issue its debenture bonds upon deeds of trust or mortgages of real estate to a sum not exceeding the face value of said deeds of trust or mortgages, which shall not exceed fifty per centum of the fair cash value of the real estate covered by said deeds or mortgages, to be ascertained by the Comptroller of the Currency. But no debenture bonds shall be issued until the securities on which the same are based have been placed in the actual possession of the trustee named in the debenture bonds, who shall hold said securities until all of said bonds are paid; and when organized under the second subdivision of the first section of this act said company is authorized to insure titles to real estate and to transact generally the business mentioned in said subdivision; and when organized under the third subdivision of Section 1 of this act said company is hereby authorized, in addition to the loan and mortgage business therein mentioned, to secure, guaranty, and insure individuals, bodies politic, associations, and corporations against loss by or through trustees, agents, servants, or employes, and to guaranty the faithful performance of contracts and of obligations of whatever kind entered into by or on the part of any person or persons, association, corporation or corporations, and against loss of every kind: Provided, That any corporation formed under the provisions of this act when acting as trustee shall be liable to account for the amounts actually earned by the moneys held by it in trust in addition to the principal so held; but such corporation may be allowed a reasonable compensation for services performed in the care of the trust estate.

193. *Competent to Act as Trustee, Etc.* (Sec. 8).—That in all cases in which application shall be made to any court in the District of Columbia, or wherever it becomes necessary or proper for said court to appoint a trustee, receiver, administrator, guardian of the estate of a minor, or committee of the estate of a lunatic, it shall and may be lawful for said court (but without prejudice to any preference in the order of any such appointments required by existing law) to appoint any such company organized under the first subdivision of Section 1 of this act, with its assent, such trustee, receiver, administrator, committee, or guardian, with the consent of the guardian of the person of such minor: Provided, however, That no court or judge who is an owner of or in any manner financially interested in the stock or business of such corporation shall commit by order or decree to any such corporation any trust or fiduciary duty.

194. *Qualifications of Such Trustee, Etc.* (Sec. 9).—That whenever any corporation operating under this act shall be appointed such trustee, executor, administrator, receiver, assignee, guardian, or committee as aforesaid, the president, vice-president, secretary, or treasurer of said company shall take the oath or affirmation now required by law to be made by any trustee, executor, receiver, assignee, guardian, or committee.



195. *Security for Faithful Performance of Trust* (Sec. 10).—That when any court shall appoint the said company a trustee, receiver, administrator, or such guardian, or committee, or shall order the deposit of money or other valuables with said company, or where any individual or corporation shall appoint any of said companies a trustee, executor, assignee, or such guardian, the capital stock of said company subscribed for or taken, and all property owned by said company, together with the liability of the stockholders and officers as herein provided, shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever.

196. *Privileges Extended to Existing Corporations* (Sec. 11).—That any safe-deposit company, trust company, surety or guaranty company, or title-insurance company now incorporated and operating under the laws of the United States or of the District of Columbia, or any of the states, and now doing business in said District, may avail itself of the provisions of this act on filing in the office of the recorder of deeds of the District of Columbia, or with the Comptroller of the Currency, a certificate of its intention to do so, which certificate shall specify which one of the three classes of business set out in Section 1 it will carry on, and shall be verified by the oath of its president to the effect that it has in every respect complied with the requirements of existing law, especially with the provisions of this act; that its capital stock is paid in as provided in Section 21 of this act and is not impaired, and thereafter such company may exercise all powers and perform all duties authorized by any one of the subdivisions of Section 1 of this act in addition to the powers now lawfully exercised by such company.

197. *Real Estate* (Sec. 12).—That any company operating under this act may lease, purchase, hold, and convey real estate, not exceeding in value \$500,000, and such in addition as it may acquire in satisfaction of debts due the corporation under sales, decrees, judgments, and mortgages. But no such association shall hold the possession of any real estate under foreclosure of mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

198. *Period of Corporations' Existence* (Sec. 13).—That the charters for incorporations named in this act may be made perpetual, or may be limited in time by their provisions, subject to the approval of Congress.

199. *Provisions Relating to Capital Stock* (Sec. 14).—That the capital stock of every such company shall be at least \$1,000,000, and at least fifty per centum thereof must have been paid in, in cash or by the transfer of assets as hereinafter provided in Section 21 of this act, before any such company shall be entitled to transact business as a corporation, except with its own members, and before any company organized hereunder shall be entitled to transact the business of a

trust company, or to become and act as an administrator, executor, guardian of the estate of a minor, or undertake any other kindred fiduciary duty, it shall deposit, either in money or in bonds, mortgages, deeds of trust, or other securities equal in actual value to one-fourth of the capital stock paid in, with the Comptroller of the Currency, to be kept by him upon the trust and for the purposes hereinafter provided; and the said Comptroller may from time to time require an additional deposit from any such company, to be held upon and for the same trust and purposes, not exceeding, however, in value one-half the paid-in capital stock; and the said Comptroller shall not issue to any corporation the certificate heretofore provided for until said deposit with him of securities required by this section. Within one year after the organization of any corporation under the provisions of this act, or after any corporation heretofore existing shall have availed itself of the powers and rights given by this act in the manner herein provided for, its entire capital stock shall have been paid in.

200. *Enforcement of Subscription to Stock* (Sec. 15).—That the capital stock of every such company shall be divided into shares of \$100 each. It shall be lawful for such company to call for and demand from the stockholders, respectively, all sums of money by them subscribed, at such time and in such proportions as its board of directors shall deem proper, within the time specified in Section 14, and it may enforce payment by all remedies provided by law; and if any stockholder shall refuse or neglect to pay any instalment as required by a resolution of the board of directors, after thirty days' notice of the same, the said board of directors may sell at public auction to the highest bidder, so many shares of said stock as shall pay said instalment, under such general regulations as may be adopted in the by-laws of said company, and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due.

201. *Annual Report to Comptroller* (Sec. 16).—That every such company shall annually, within twenty days after the first of January of each year, make a report to the Comptroller of the Currency, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid, the amount of debts, and the gross earnings for the year ending December 31 then next previous, together with their expenses, which report shall be signed by the president and a majority of the directors or trustees, and shall be verified by the oath of the president, secretary, and at least three of the directors or trustees.

202. *Tax on Gross Earnings* (Sec. 16).—And said company shall pay to the District of Columbia, in lieu of personal taxes for each next ensuing year, one and a half per centum of its gross earnings for the preceding year, shown by said verified statement, which amount



shall be payable to the collector of taxes at the times and in the manner that other taxes are payable.

203. *Liability for Failure to Report* (Sec. 17).—That if any company fails to comply with the provisions of the preceding section, all the directors or trustees of such company shall be jointly and severally liable for the debts of the company then existing, and for all that shall be contracted before such report shall be made: Provided, That in case of failure of the company in any year to comply with the provisions of Section 16 of this act, and any of the directors shall, on or before January 15 of such year, file his written request for such compliance with the secretary of the company, the Comptroller of the Currency, and the recorder of deeds of the District of Columbia, such director shall be exempt from the liability prescribed in this section.

204. *Perjury and Larceny* (Sec. 18).—That any wilful, false swearing in regard to any certificate or report or public notice required by the provisions of this act shall be perjury, and shall be punished as such according to the laws of the District of Columbia. And any misappropriation of any of the money of any corporation or company formed under this act, or any money, funds, or property intrusted to it, shall be held to be larceny, and shall be punished as such under the laws of said District.

205. *Transfer of Stock* (Sec. 19).—That the stock of such company shall be deemed personal estate, and shall be transferable only on the books of such company in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid, and the said stock shall not be taxable, in the hands of individual owners, the tax on the capital stock, gross earnings of the company hereinbefore provided being in lieu of other personal tax. All certificates of the stock of any company organized under this act shall show upon their face the par value of each share and the amount paid thereon.

206. *Liability of Stockholders* (Sec. 20).—That all stockholders of every company incorporated under this act, or availing itself of its provisions under Section 11, shall be severally and individually liable to the creditors of such company to an amount equal to and in addition to the amount of stock held by them, respectively, for all debts and contracts made by such company.

207. *Money Payment of Capital Stock Required* (Sec. 21).—That nothing but money shall be considered as payment of any part of the capital stock, except that in the case of any company now doing business in the District of Columbia in any of the classes herein provided for, or under any act of Congress or by virtue of the laws of any of the states, and which company has actually received full payment in money of at least fifty per centum of the capital stock required by this act and which company desires to obtain a charter under this act, all

the assets or property may be received and considered as money, at a value to be appraised and fixed by the Comptroller of the Currency: Provided, That all such assets and property are also transferred to and are thereafter owned by the company organized under this act.

208. *Number and Election of Directors* (Sec. 22).—That the stock, property, and concerns of such company shall be managed by not less than nine nor more than thirty directors or trustees, who shall, respectively, be stockholders and at least one-half residents and citizens of the District of Columbia, and shall, except the first year, be annually elected by the stockholders at such time and place and after such published notice as shall be determined by the by-laws of the company, and said directors or trustees shall hold until their successors are elected and qualified.

209. *Appointment of Officers* (Sec. 23).—That there shall be a president of the company, who shall be a director, also a secretary and a treasurer, all of whom shall be chosen by the directors or trustees: Provided, That only one of the above-named offices shall be held by the same person at the same time. Subordinate officers may be appointed by the directors or trustees, and all such officers may be required to give such security for the faithful performance of the duties of their office as the directors or trustees may require.

210. *By-Laws* (Sec. 24).—That the directors or trustees shall have power to make such by-laws as they deem proper for the management or disposal of the stock and business affairs of such company, not inconsistent with the provisions of this act, and prescribing the duties of officers and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

211. *Directors Liable for Payment of Unearned Dividends* (Sec. 25). That if the directors or trustees of any company shall declare or pay any dividend, the payment of which would render it insolvent, or which would create a debt against such company, they shall be jointly and severally liable as guarantors for all of the debts of the company then existing, and for all that shall be thereafter contracted, while they shall, respectively, remain in office.

212. *Directors' Liability May Be Avoided* (Sec. 26).—That if any of the directors or trustees shall object to declaring of such dividend or the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection in writing with the secretary of the company and with the recorder of deeds of the District, they shall be exempt from liability prescribed in the preceding section.

213. *Responsibility of Directors for Excess Liabilities* (Sec. 27). That if the liabilities of any company shall at any time exceed the amount of the fair cash value of the assets, the directors or trustees of such company assenting thereto shall be personally and individually



liable for such excess to the creditors of the company after the additional liability of the stockholders has been enforced.

214. *Trustee, Etc., Not Liable on Stock Assessment* (Sec. 28).—That no person holding stock in such company as executor, administrator, guardian, or trustee shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor, administrator, guardian, or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or the person interested in such trust fund would have been if he had been living and competent to act and hold the stock in his own name.

215. *Increase of Capital* (Sec. 29).—That any corporation which may be formed under this chapter may increase its capital stock by complying with the provisions of this chapter to any amount which may be deemed sufficient and proper for the purposes of the corporation.

216. *Certified Copy of Incorporation Certificate Competent Evidence* (Sec. 30).—That a copy of any certificate of incorporation filed in pursuance of this chapter, certified by the recorder of deeds to be a true copy and the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

217. *No Bond or Other Security Required of Trust Companies* (Sec. 31).—That no bond or other collateral security, except as hereinafter stated, shall be required from any trust company incorporated under this act for or in respect to any trust, nor when appointed trustee, guardian, receiver, executor, or administrator, with or without the will annexed, committee of the estate of a lunatic, or idiot, or other fiduciary appointment; but the capital stock subscribed for or taken, and all property owned by said company and the amount for which said stockholders shall be liable in excess of their stock, shall be taken and considered as the security required by law for the faithful performance of its duties and shall be absolutely liable in case of any default whatever; and in case of the insolvency or dissolution of said company the debts due from the said company as trustee, guardian, receiver, executor, or administrator, committee of the estate of lunatics, idiots, or any other fiduciary appointment, shall have a preference.

218. *District Supreme Court Has Jurisdiction of Trust Companies* (Sec. 32).—That the supreme court of the District of Columbia, or any justice thereof, shall have the power to make orders respecting such company whenever it shall have been appointed trustee, guardian, receiver, executor, or administrator, with or without the will annexed, committee of the estate of a lunatic, idiot, or any other fiduciary, and require the said company to render all accounts which might lawfully be made or required by any court or any justice thereof if such trustee, guardian, receiver, executor, administrator, with or without the will

annexed, committee of the estate of a lunatic, or idiot, or fiduciary were a natural person. And said court, or any justice thereof, at any time, on application of any person interested, may appoint some suitable person to examine into the affairs and standing of such companies, who shall make a full report thereof to the court, and said court, or any justice thereof, may at any time, in its discretion, require of said company a bond with sureties or other securities for the faithful performance of its obligations, and such sureties or other security shall be liable to the same extent and in the same manner as if given or pledged by a natural person.

219. *All Similar District Corporations Subject to This Act* (Sec. 33).—That no corporation or company organized by virtue of the laws of any of the states of this Union and having its principal place of business within the District of Columbia, shall carry on, in the District of Columbia, any of the kinds of business named in this act without strict compliance in all particulars with the provisions of this act for the government of such corporations formed under it, and each one of the officers of the corporation or company so offending shall be punished by fine not exceeding \$1,000, or imprisonment in some state's prison not exceeding one year, or by both fine and imprisonment, in the discretion of the court. This section shall not take effect till six months after the approval of this act.

220. *Provisions for Amendment* (Sec. 34).—That Congress may at any time alter, amend, or repeal this act, but any such amendment or repeal shall not, nor shall the dissolution of any company formed under this act, take away or impair any remedy given against such corporation, its stockholders or officers, for any liability or penalty which shall have been previously incurred: Provided, That the courts of the District of Columbia shall not have the power to appoint any trustee, trustees, guardians, receivers, or other trustee of a fund or property located outside of the District of Columbia, or belonging to a corporation or person having a legal residence or location outside of said District.

## CHAPTER X

### GOVERNMENT DEPOSITORIES

221. *Designation and Duties of Public Depositories* (Sec. 5153). All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositories of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the government; and they shall perform all such reasonable duties, as depositories of public moneys and financial agents of the government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of the United States bonds and otherwise, for the safe keeping



and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the government. And every association so designated as receiver or depository of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the government for internal revenue, or for loans or stocks.

222. *Deposit and Withdrawal of Public Moneys* (Sec. 3620).—It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement to deposit the same with the Treasurer or some one of the assistant treasurers of the United States, and to draw for the same only as it may be required for payments to be made by him in pursuance of law; and draw from the same only in favor of the persons to whom payment is made, and all transfers from the Treasurer of the United States to a disbursing officer shall be by draft or warrant on the Treasurer or an assistant treasurer of the United States. In places, however, where there is no Treasurer or assistant treasurer, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depository, or, in writing, authorize the same to be kept in any other manner and under such rules and regulations as he may deem most safe and effectual to facilitate the payments to public creditors.

223. *Provisions for Deposits by Certain Postmasters* (Sec. 3847). Any postmaster, having public money belonging to the government, at an office within a county where there are no designated depositories, treasurers of mints, or Treasurer or assistant treasurers of the United States, may deposit the same, at his own risk and in his official capacity, in any national bank in the town, city, or county where the said postmaster resides; but no authority or permission is or shall be given for demand or receipt by the postmaster, or any other person, of interest, directly or indirectly, on any deposit made as herein described; and every postmaster who makes any such deposit shall report quarterly to the Postmaster-General the name of the bank where such deposits have been made, and also state the amount which may stand at the time to his credit.

224. *Penalty for Misapplication of Money-Order Funds* (Sec. 4046). Every postmaster, assistant, clerk, or other person employed in or connected with the business or operations of any money-order office, who converts to his own use, in any way whatever, or loans, or deposits in any bank, except as authorized by this title, or exchanges for other funds, any portion of the money-order funds, shall be deemed guilty of embezzlement, and any such person, as well as every other person advising or participating therein, shall, for every such offense, be imprisoned for not less than six months nor more than ten years, and be fined in a sum equal to the amount embezzled; and any failure to pay over or produce any money-order funds intrusted to such person

shall be taken to be *prima facie* evidence of embezzlement; and upon the trial of any indictment against any person for such embezzlement it shall be *prima facie* evidence of a balance against him to produce a transcript from the money-order account books of the Sixth Auditor. But nothing herein contained shall be construed to prohibit any postmaster depositing, under the direction of the Postmaster-General, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as postmaster, any money-order or other funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officer, or otherwise, when instructed or required to do so by the Postmaster-General for the purpose of remitting surplus money-order funds from one post office to another, to be used in payment of money orders. Disbursing officers of the United States shall issue, under regulations to be prescribed by the Secretary of the Treasury, duplicates of lost checks drawn by them in favor of any postmaster on account of money-order or other public funds received by them from some other postmaster.

225. *Penalty for Unauthorized Deposit of Public Money* (Sec. 5488). Every disbursing officer of the United States who deposits any public money intrusted to him in any place or in any manner, except as authorized by law, or converts to his own use in any way whatever, or loans with or without interest, or for any purpose not prescribed by law withdraws from the Treasurer or any assistant treasurer, or any authorized depository, or for any purpose not prescribed by law transfers or applies any portion of the public money intrusted to him, is, in every such act, deemed guilty of an embezzlement of the money so deposited, converted, loaned, withdrawn, transferred, or applied; and shall be punished by imprisonment with hard labor for a term not less than one year nor more than ten years, or by a fine of not more than the amount embezzled or less than \$1,000, or by both such fine and imprisonment.

226. *Penalty for Unauthorized Receipt or Use of Public Money* (Sec. 5497).—Every banker, broker, or other person not an authorized depository of public moneys, who knowingly receives from any disbursing officer, or collector of internal revenue, or other agent of the United States, any public money on deposit, or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States, or who uses, transfers, converts, appropriates, or applies any portion of the public money for any purpose not prescribed by law, and every president, cashier, teller, director, or other officer of any bank or banking association, who violates any of the provisions of this section, is guilty of an act of embezzlement of the public money so deposited, loaned, transferred, used, converted, appropriated, or applied, and shall be punished as prescribed in Section 5488.



## CHAPTER XI

## MISCELLANEOUS

**227. *Legal Tender and Lawful Money.***—The following statement concerning the legal-tender properties of money of the United States is based upon United States Revised Statutes, Sections 3585, 3586, 3587, 3588, 3589, and 3590, and the acts amendatory thereof and additional thereto:

Gold coin, standard silver dollars, subsidiary silver, minor coins, United States notes, and Treasury notes of 1890 have the legal-tender quality as follows: Gold coin is legal tender for its nominal value when not below the limit of tolerance in weight; when below that limit it is legal tender in proportion to its weight; standard silver dollars and Treasury notes of 1890 are legal tender for all debts, public and private, except where otherwise expressly stipulated in the contract; subsidiary silver is legal tender to the extent of \$10, minor coins to the extent of 25 cents, and United States notes for all debts, public and private, except duties on imports and interest on the public debt. Gold certificates, silver certificates, and national-bank notes are non-legal-tender money. Both kinds of certificates, however, are receivable for all public dues, and national-bank notes are receivable for all public dues except duties on imports, and may be paid out for all public dues, except interest on the public debt.

The term "lawful money" is understood to apply to every form of money which is endowed by law with the legal-tender quality.

Approved June 7, 1872.

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**Amendment.**—An amendment to Sec. 5146 (see page 391), February 28, 1905, provides that a director of a national bank of capital not exceeding \$25,000 shall own five shares of stock instead of ten, as before required.

**CURRENCY ACT**

An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, as established by Section 3511 of the Revised Statutes of the United States, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity.

SEC. 2. That United States notes, and Treasury notes issued under the act of July 14, 1890, when presented to the Treasury for redemption, shall be redeemed in gold coin of the standard fixed in the first section of this act, and in order to secure the prompt and certain redemption of such notes as herein provided it shall be the duty of the Secretary of the Treasury to set apart in the Treasury a reserve fund of \$150,000,000 in gold coin and bullion, which fund shall be used for such redemption purposes only, and whenever and as often as any of said notes shall be redeemed from said fund it shall be the duty of the Secretary of the Treasury to use said notes so redeemed to restore and maintain such reserve fund in the manner following, to wit: First, by exchanging the notes so redeemed for any gold coin in the general fund of the Treasury; second, by accepting deposits of gold coin at the Treasury or at any subtreasury in exchange for United States notes so redeemed; third, by procuring gold coin by the use of said notes, in accordance with the provisions of Section 3700 of the Revised Statutes of the United States. If the Secretary of the Treasury is unable to restore and maintain the gold coin in the reserve fund by the foregoing methods, and the amount of such gold coin and bullion in said fund shall at any time fall below \$100,000,000, then it shall be his duty to restore the same to the maximum sum of \$150,000,000 by borrowing money on the credit of the United States, and for the debt thus incurred to issue and sell coupon or registered bonds of the United States, in such form as he may prescribe, in denominations of \$50 or any multiple thereof, bearing interest at the rate of not exceeding three per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the United States after one year from the date of their issue, and to be payable, principal and



interest, in gold coin of the present standard value, and to be exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under state, municipal, or local authority; and the gold coin received from the sale of said bonds shall first be covered into the general fund of the Treasury and then exchanged, in the manner hereinbefore provided, for an equal amount of the notes redeemed and held for exchange, and the Secretary of the Treasury may, in his discretion, use said notes in exchange for gold, or to purchase or redeem any bonds of the United States, or for any other lawful purpose the public interests may require, except that they shall not be used to meet deficiencies in the current revenues. That United States notes when redeemed in accordance with the provisions of this section shall be reissued, but shall be held in the reserve fund until exchanged for gold, as herein provided; and the gold coin and bullion in the reserve fund, together with the redeemed notes held for use as provided in this section, shall at no time exceed the maximum sum of \$150,000,000.

SEC. 3. That nothing contained in this act shall be construed to affect the legal-tender quality as now provided by law of the silver dollar, or of any other money coined or issued by the United States.

SEC. 4. That there be established in the Treasury Department, as a part of the office of the Treasurer of the United States, divisions to be designated and known as the division of issue and the division of redemption, to which shall be assigned, respectively, under such regulations as the Secretary of the Treasury may approve, all records and accounts relating to the issue and redemption of United States notes, gold certificates, silver certificates, and currency certificates. There shall be transferred from the accounts of the general fund of the Treasury of the United States, and taken up on the books of said divisions, respectively, accounts relating to the reserve fund for the redemption of United States notes and Treasury notes, the gold coin held against outstanding gold certificates, the United States notes held against outstanding currency certificates, and the silver dollars held against outstanding silver certificates, and each of the funds represented by these accounts shall be used for the redemption of the notes and certificates for which they are respectively pledged, and shall be used for no other purpose, the same being held as trust funds.

SEC. 5. That it shall be the duty of the Secretary of the Treasury, as fast as standard silver dollars are coined under the provisions of the acts of July 14, 1890, and June 13, 1898, from bullion purchased under the act of July 14, 1890, to retire and cancel an equal amount of Treasury notes whenever received into the Treasury, either by exchange in accordance with the provisions of this act or in the ordinary course of business, and upon the cancelation of Treasury

notes silver certificates shall be issued against the silver dollars so coined.

SEC. 6. That the Secretary of the Treasury is hereby authorized and directed to receive deposits of gold coin with the Treasurer or any assistant treasurer of the United States in sums of not less than \$20, and to issue gold certificates therefor in denominations of not less than \$20, and the coin so deposited shall be retained in the Treasury and held for the payment of such certificates on demand, and used for no other purpose. Such certificates shall be receivable for customs, taxes, and all public dues, and when so received may be reissued, and when held by any national banking association may be counted as part of its lawful reserve: Provided, That whenever and so long as the gold coin held in the reserve fund of the Treasury for the redemption of United States notes and Treasury notes shall fall and remain below \$100,000,000 the authority to issue certificates as herein provided shall be suspended: And provided further, That whenever and so long as the aggregate amount of United States notes and silver certificates in the general fund of the Treasury shall exceed \$60,000,000 the Secretary of the Treasury may, in his discretion, suspend the issue of the certificate herein provided for: And provided further, That of the amount of such outstanding certificates one-fourth at least shall be in denominations of \$50 or less: And provided further, That the Secretary of the Treasury may, in his discretion, issue such certificates in denominations of \$10,000, payable to order. And Section 5193 of the Revised Statutes of the United States is hereby repealed.

SEC. 7. That hereafter silver certificates shall be issued only of denominations of \$10 and under, except that not exceeding in the aggregate ten per centum of the total volume of said certificates, in the discretion of the Secretary of the Treasury, may be issued in denominations of \$20, \$50, and \$100; and silver certificates of higher denomination than \$10, except as herein provided, shall, whenever received at the Treasury or redeemed, be retired and canceled, and certificates of denominations of \$10 or less shall be substituted therefor, and after such substitution, in whole or in part, a like volume of United States notes of less denomination than \$10 shall from time to time be retired and canceled, and notes of denominations of \$10 and upwards shall be reissued in substitution therefor, with like qualities and restrictions as those retired and canceled.

SEC. 8. That the Secretary of the Treasury is hereby authorized to use, at his discretion, any silver bullion in the Treasury of the United States purchased under the act of July 14, 1890, for coinage into such denominations of subsidiary silver coin as may be necessary to meet the public requirements for such coin: Provided, That the amount of subsidiary silver coin outstanding shall not at any time exceed in the aggregate one hundred millions of dollars. Whenever any silver bullion purchased under the act of July 14, 1890, shall be used in the



coinage of subsidiary silver coin, an amount of Treasury notes issued under said act equal to the cost of the bullion contained in such coin shall be canceled and not reissued.

SEC. 9. That the Secretary of the Treasury is hereby authorized and directed to cause all worn and uncurrent subsidiary silver coin of the United States now in the Treasury, and hereafter received, to be recoined, and to reimburse the Treasurer of the United States for the difference between the nominal or face value of such coin and the amount the same will produce in new coin from any moneys in the Treasury not otherwise appropriated.

SEC. 10. That Section 5138 of the Revised Statutes is hereby amended so as to read as follows:

"SECTION 5138. No association shall be organized with a less capital than \$100,000, except that banks with a capital of not less than \$50,000 may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed 6,000 inhabitants, and except that banks with a capital of not less than \$25,000 may, with the sanction of the Secretary of the Treasury, be organized in any place the population of which does not exceed 3,000 inhabitants. No association shall be organized in a city the population of which exceeds 50,000 persons with a capital of less than \$200,000."

SEC. 11. That the Secretary of the Treasury is hereby authorized to receive at the Treasury any of the outstanding bonds of the United States bearing interest at five per centum per annum, payable February 1, 1904, and any bonds of the United States bearing interest at four per centum per annum, payable July 1, 1907, and any bonds of the United States bearing interest at three per centum per annum, payable August 1, 1908, and to issue in exchange therefor an equal amount of coupon or registered bonds of the United States in such form as he may prescribe, in denominations of \$50 or any multiple thereof, bearing interest at the rate of two per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the United States after thirty years from the date of their issue, and said bonds to be payable, principal and interest, in gold coin of the present standard value, and to be exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under state, municipal, or local authority: Provided, That such outstanding bonds may be received in exchange at a valuation not greater than their present worth to yield an income of two and one quarter per centum per annum; and in consideration of the reduction of interest effected, the Secretary of the Treasury is authorized to pay to the holders of the outstanding bonds surrendered for exchange, out of any money in the Treasury not otherwise appropriated, a sum not greater than the difference between their present worth, computed as aforesaid, and their par value, and the payments to be made hereunder shall be held to be payments on account of the sinking fund

created by Section 3694 of the Revised Statutes: And provided further, That the two-per-centum bonds to be issued under the provisions of this act shall be issued at not less than par, and they shall be numbered consecutively in the order of their issue, and when payment is made the last numbers issued shall be first paid, and this order shall be followed until all the bonds are paid, and whenever any of the outstanding bonds are called for payment interest thereon shall cease three months after such call; and there is hereby appropriated out of any money in the Treasury not otherwise appropriated, to effect the exchanges of bonds provided for in this act, a sum not exceeding one-fifteenth of one per centum of the face value of said bonds, to pay the expenses of preparing and issuing the same and other expenses incident thereto.

SEC. 12. That upon the deposit with the Treasurer of the United States, by any national banking association, of any bonds of the United States in the manner provided by existing law, such association shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited; and any national banking association now having bonds on deposit for the security of circulating notes, and upon which an amount of circulating notes has been issued less than the par value of the bonds, shall be entitled, upon due application to the Comptroller of the Currency, to receive additional circulating notes in blank to an amount which will increase the circulating notes held by such association to the par value of the bonds deposited, such additional notes to be held and treated in the same way as circulating notes of national banking associations heretofore issued, and subject to all the provisions of law affecting such notes: Provided, That nothing herein contained shall be construed to modify or repeal the provisions of Section 5167 of the Revised Statutes of the United States, authorizing the Comptroller of the Currency to require additional deposits of bonds or of lawful money in case the market value of the bonds held to secure the circulating notes shall fall below the par value of the circulating notes outstanding for which such bonds may be deposited as security: And provided further, That the circulating notes furnished to national banking associations under the provisions of this act shall be of the denominations prescribed by law, except that no national banking association shall, after the passage of this act, be entitled to receive from the Comptroller of the Currency, or to issue or reissue or place in circulation, more than one-third in amount of its circulating notes of the denomination of \$5: Any provided further, That the total amount of such notes issued to any such association may equal at any time but shall not exceed the amount at such time of its capital stock actually paid in: And provided further, That under regulations to be prescribed by the Secretary of the Treasury any national banking



association may substitute the two-per-centum bonds issued under the provisions of this act for any of the bonds deposited with the Treasurer to secure circulation or to secure deposits of public money; and so much of an act entitled "An act to enable national banking associations to extend their corporate existence, and for other purposes," approved July 12, 1882, as prohibits any national bank which makes any deposit of lawful money in order to withdraw its circulating notes from receiving any increase of its circulation for the period of six months from the time it made such deposit of lawful money for the purpose aforesaid, is hereby repealed, and all other acts or parts of acts inconsistent with the provisions of this section are hereby repealed.

SEC. 13. That every national banking association having on deposit, as provided by law, bonds of the United States bearing interest at the rate of two per centum per annum, issued under the provisions of this act, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of said two-per-centum bonds; and such taxes shall be in lieu of existing taxes on its notes in circulation imposed by Section 5214 of the Revised Statutes.

SEC. 14. That the provisions of this act are not intended to preclude the accomplishment of international bimetalism whenever conditions shall make it expedient and practicable to secure the same by concurrent action of the leading commercial nations of the world and at a ratio which shall insure permanence of relative value between gold and silver.

Approved March 4, 1900.

## UNITED STATES TRADE-MARK LAW

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States, or resides in or is located in any foreign country, which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a description of the trade-mark itself, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark, as actually used, as may be required by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of \$10, and otherwise complying with the requirements of this act and such regulations as may be prescribed by the Commissioner of Patents.

SECTION 2. That the application prescribed in the foregoing section, in order to create any right whatever in favor of the party filing it, must be accompanied by a written declaration verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, to the effect that the applicant believes himself or the firm, corporation, or association in whose behalf he makes the application to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of the applicant's knowledge and belief, has the right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes, and that the description and drawing presented truly represent the trade-mark sought to be registered. If the applicant resides or is located in a foreign country, the statement required shall, in addition to the foregoing, set forth that the trade-mark has been



registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or the application therefor as the case may be, except that in the application in such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof. The verification required by this section may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, *chargé d'affaires*, consul, or commercial agent holding commission under the government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

SECTION 3. That every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance of the certificate of registration, as hereinafter provided for, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim to be the owner, brought under the provisions of this act or under other laws of the United States, may be served, with the same force and effect as if served upon the applicant or registrant in person. For the purposes of this act, it shall be deemed sufficient to serve such notice upon such applicant, registrant, or representative by leaving a copy of such process or notice addressed to him at the last address of which the Commissioner of Patents has been notified.

SECTION 4. That an application for registration of a trade-mark filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States an application for registration of the same trade-mark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application is filed in this country within 4 months from the date on which the application was first filed in such foreign country: And *provided*, That certificate of registration shall not be issued for any mark for registration of which application has been filed by an applicant located in a foreign country until such mark has been actually registered by the applicant in the country in which he is located.

SECTION 5. That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall

be refused registration as a trade-mark on account of the nature of such mark unless such mark:

(a) Consists of or comprises immoral or scandalous matter;

(b) Consists of or comprises the flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any state or municipality, or of any foreign nation. *Provided*, That trade-marks which are identical with a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers, shall not be registered. *Provided*, That no mark which consists merely in the name of an individual, firm, corporation, or association, not written, printed, impressed, or woven in some particular or distinctive manner or in association with the portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this act. *Provided further*, That no portrait of a living individual may be registered as a trade-mark, except by consent of such individual, evidenced by an instrument in writing. And *provided further*, That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several states, or with Indian tribes, which was in actual and exclusive use as a trade-mark of the applicant or his predecessors from whom he derived title for 10 years next preceeding the passage of this act.

SECTION 6. That on the filing of an application for registration of a trade-mark which complies with the requirements of this act, and the payment of the fees herein provided for, the Commissioner of Patents shall cause an examination thereof to be made; and if on such examination it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of this act, the Commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing notice of opposition, stating the grounds therefor, in the Patent Office, within 30 days after the publication of the mark sought to be registered, which said notice of opposition shall be verified by the person filing the same before one of the officers mentioned in Section 2 of this act. If no notice of opposition is filed within said time the Commissioner shall issue a certificate of registration therefor, as hereinafter provided for. If on examination an application is



refused, the Commissioner shall notify the applicant, giving him his reasons therefor.

SECTION 7. That in all cases where notice of opposition has been filed, the Commissioner of Patents shall notify the applicant thereof and the grounds therefor. Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another has previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion of the Commissioner, to be likely to be mistaken therefor by the public, he may declare that an interference exists as to such trade-mark, and in every case of interference or opposition to registration he shall direct the examiner in charge of interferences to determine the question of the right of registration to such trade-mark, and of the sufficiency of objections to registration in such manner and upon such notice to those interested as the Commissioner may by rules prescribe. The Commissioner may refuse to register the mark against the registration of which objection is filed, or may refuse to register both of two interfering marks, or may register the mark, as a trade-mark for the person first to adopt and use the mark, if otherwise entitled to register the same, unless an appeal is taken, as hereinafter provided for, from his decision, by a party interested in the proceeding, within such time (not less than 20 days) as the Commissioner may prescribe.

SECTION 8. That every applicant for the register of a trade-mark, or for the renewal of the registration of a trade-mark, which application is refused, or a party to an interference against whom a decision has been rendered, or a party who has filed a notice of opposition as to a trade-mark, may appeal from the decision of the examiner in charge of trade-marks, or the examiner in charge of interferences, as the case may be, to the Commissioner in person, having once paid the fee for such appeal.

SECTION 9. That if an applicant for registration of a trade-mark, or a party to an interference as to a trade-mark, or a party who has filed opposition to the registration of a trade-mark, or party to an application for the cancellation of the registration of a trade-mark, is dissatisfied with the decision of the Commissioner of Patents, he may appeal to the Court of Appeals of the District of Columbia, on complying with the conditions required in case of an appeal from the decision of the Commissioner by an applicant for patent, or a party to an interference as to an invention, and the same rules of practice and procedure shall govern in every stage of such proceedings, as far as the same may be applicable.

SECTION 10. That every registered trade-mark, and every mark for the registration of which application has been made, together with the application for registration of the same, shall be assignable in connection with the good will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or state in which the same is executed; any such assignment shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless it is recorded in the Patent Office within 3 months from date thereof. The Commissioner shall keep a record of such assignments.

SECTION 11. That certificates of registration of trade-marks shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose. The certificate shall state the date on which the application for registration was received in the Patent Office. Certificates of registration of trade-marks may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

Written or printed copies of any records, books, papers, or drawings relating to trade-marks belonging to the Patent Office, and of certificates of registration, authenticated by the seal of the Patent Office and certified by the Commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

SECTION 12. That a certificate of registration shall remain in force for 20 years, except that in the case of trade-marks previously registered in a foreign country such certificates shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall in no case remain in force more than 20 years, unless renewed. Certificates of registration may be, from time to time, renewed for like periods on payment of the renewal fees required by this act, upon request by the registrant, his legal representatives, or transferees of record in the Patent Office, and such request may be made at any time not more than 6 months prior to the expiration of the period for which the certificates of registration were issued or renewed. Certificates of registration in force at the date at which this act takes effect shall remain in force for the period for which they were issued, but shall be renewable on the same conditions, and for the same periods as certificates issued under the provisions of this act, and when so renewed shall have the same force and effect as certificates issued under this Act.



SECTION 13. That whenever any person shall deem himself injured by the registration of a trade-mark in the Patent Office he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The Commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner shall so decide, the Commissioner shall cancel the registration. Appeal may be taken to the Commissioner in person from the decision of examiner of interferences.

SECTION 14. That the following shall be the rates for trade-mark fees: On filing each original application for registration of a trade-mark, \$10: *Provided*, That an application for registration of a trade-mark pending at the date of the passage of this act, and on which certificate of registration shall not have issued at such date, may, at the option of the applicant, be proceeded with, and registered under the provisions of this act without the payment of further fee.

On filing each application for renewal of the registration of a trade-mark, \$10.

On filing notice of opposition to the registration of a trade-mark, \$10.

On an appeal from the examiner in charge of trade-marks to the Commissioner of Patents, \$15.

On an appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents, \$15.

For certified and uncertified copies of certificates of registration and other papers, and for recording transfers and other papers, the same fees as required by law for such copies of patents and for recording assignments and other papers relating to patents.

SECTION 15. That Sections 4,935 and 4,936 of the Revised Statutes, relating to the payment of patent fees and to the repayment of fees paid by mistake, are hereby made applicable to trade-mark fees.

SECTION 16. That the registration of a trade-mark under the provisions of this act shall be prima facie evidence of ownership. Any person who shall, without the consent of the owner thereof, reproduce, counterfeit, copy, or colorably imitate any such trade-mark and affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable

imitation in commerce among the several states, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefore at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SECTION 17. That the circuit and territorial courts of the United States and the supreme court of the District of Columbia shall have original jurisdiction, and the circuit courts of appeal of the United States and the court of appeals of the District of Columbia shall have appellate jurisdiction of all suits at law or in equity respecting trade-marks registered in accordance with the provisions of this act, arising under the present act, without regard to the amount in controversy.

SECTION 18. That writs of *certiorari* may be granted by the supreme court of the United States for the review of cases arising under this act in the same manner as provided for patent cases by the act creating the circuit court of appeals.

SECTION 19. That the several courts vested with jurisdiction of cases arising under the present act shall have power to grant injunctions, according to the course and principles of equity, to prevent the violation of any right of the owner of a trade-mark registered under this act, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for wrongful use of a trade-mark the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. The court shall have the same power to increase such damages, in its discretion, as is given by Section 16 of this act for increasing damages found by verdict in actions at law; and in assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost which are claimed.

SECTION 20. That in any case involving the right to a trade-mark registered in accordance with the provisions of this act, in which the verdict has been found for the plaintiff, or an injunction issued, the court may order that all labels, signs, prints, packages, wrappers or receptacles in the possession of the defendant, bearing the trade-mark of the plaintiff or complainant, or any reproduction, counterfeit, copy, or colorable imitation thereof, shall be delivered up and destroyed. Any injunction that may be granted upon hearing, after notice to the defendant, to prevent the violation of any right of the owner of a trade-mark registered in accordance with the provisions of this act, by any circuit court of the United States, or by a judge thereof, may be



served on the parties against whom such injunction may be granted anywhere in the United States where they may be found, and shall be operative, and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other circuit court, or judge thereof, in the United States, or by the Supreme Court of the District of Columbia, or a judge thereof. The said courts, or judges thereof, shall have jurisdiction to enforce said injunction, as herein provided, as fully as if the injunction had been granted by the circuit court in which it is sought to be enforced. The clerk of the court or judge granting the injunction shall, when required to do so by the court before which application to enforce said injunction is made, transfer without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.

SECTION 21. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in unlawful business, or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or has been abandoned, or upon any certificate of registration fraudulently obtained.

SECTION 22. That whenever there are interfering registered trade-marks, any person interested in any one of them may have relief against the interfering registrant, and all persons interested under him, by suit in equity against the said registrant; and the court, on notice to adverse parties and other due proceedings had according to the course of equity, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the trade-mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancellation.

SECTION 23. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SECTION 24. That all applications for registration pending in the office of the Commissioner of Patents at the time of the passage of this act may be amended with a view to bringing them, and the certificate issued upon such applications, under its provisions and the prosecution of such applications may be proceeded with under the provisions of this act.

SECTION 25. That any person who shall procure registration of a trade-mark or entry thereof, in the office of the Commissioner of Patents by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case.

SECTION 26. That the Commissioner of Patents is authorized to make rules and regulations, not inconsistent with law, for the conduct of proceedings in reference to the registration of trade-mark provided for by this act.

SECTION 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade mark registered in accordance with the provisions of this act, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any custom house of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs.

SECTION 28. That it shall be the duty of the registrant to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in the U. S. Patent Office," or abbreviated thus, "Reg. U. S. Pat. Off.," or when, from the character or size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this cannot be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are enclosed; and in any suit for infringement by a party failing so to give notice of registration no damages shall be recovered, except on proof that the defendant was duly notified of infringement, and continued the same after such notice.

SECTION 29. That in construing this act the following rules must be observed, except where the contrary intent is plainly apparent from the context thereof: The United States includes and embraces all



territory which is under the jurisdiction and control of the United States. The word "states" includes and embraces the District of Columbia, the territories of the United States, and such other territory as shall be under the jurisdiction and control of the United States. The terms "person" and "owner," and any other word or term used to designate the applicant or other entitled to a benefit or privilege or rendered liable under the provisions of this Act, include a firm, corporation, or association as well as a natural person. The term "applicant" and "registrant" embrace the successors and assigns of such applicant or registrant. The term "trade-mark" includes any mark which is entitled to registration under the terms of this act and whether registered or not and a trade-mark shall be deemed to be "affixed" to an article when it is placed in any manner in or upon either the article itself or the receptacle or package or upon the envelope or other thing in, by, or with which the goods are packed or enclosed or otherwise prepared for sale or distribution.

SECTION 30. That this Act shall be in force and take effect April 1, 1905. All acts and parts of acts inconsistent with this act are hereby repealed except so far as the same may apply to certificates of registration issued under the act of congress approved March 3, 1881, entitled "An act to authorize the registration of trade-marks and protect the same," or under the act approved August 5, 1882, entitled "An act relating to the registration of trade-marks."

## GOVERNMENT FEES FOR PATENTS, COPYRIGHT, AND TRADE-MARKS

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### PATENTS

**United States.**—The following is the schedule of the principal fees of the patent office: On filing each original application for a design patent for 3 years and 6 months, \$10; on filing each original application for a design patent for 7 years, \$15; on filing each original application for a design patent for 14 years, \$30; on allowance of an application for a design patent, no further charge; on filing each caveat, \$10; on filing each original application for a patent, \$15; on allowance of an original application for a patent except in design cases, \$20 (this fee must be paid within 6 months from the date of allowance of the application); on filing each disclaimer, \$10; on filing every application for the reissue of a patent, \$30; on filing each application for a division of a reissue, \$30; on allowance of an application for the reissue, no further charge; on filing an appeal from a primary examiner or the examiner of interferences to the board of examiners-in-chief, \$10; on filing an appeal from the board of examiners-in-chief to the commissioner, \$20.

**Great Britain.**—Application for patents can be made in either of two ways: (a) By filing a provisional specification describing the invention generally, and thus securing provisional protection for 6 months, before the expiration of which period the application has to be completed by filing a complete specification; or (b), by filing a complete specification in the first instance, describing the invention in detail. The provisional specification is not intended to describe the invention so minutely and completely that a person skilled in the art to which it relates shall be able, with the aid of the provisional specification alone, to carry out the invention; it is rather intended for the purpose of enabling the comptroller to identify the invention described in the complete specification with the invention which the applicant had in mind when filing his original application, as disclosed by the provisional specification. Application for provisional protection is usually made only where the applicant has not matured his invention, or where he desires to have time to apply for patents in other countries before the invention is published. No infringement can take place until the complete specification has been accepted. At any time after



the allowance of the provisional protection (generally within 3 weeks after the application) and within 6 months from the date of the application, the applicant must file his complete specification, including necessary description, drawings, and claims. If the full time be taken, and the complete specification is filed at the termination of 6 months from the date of application, the patent would in ordinary course issue in about 9 or 10 months from the date of the filing of the provisional specification (unless the examiner should cite any prior specification which would entail a delay of a month or two on account of the necessary amendment), between 1 and 2 months being taken for the acceptance of the complete specification, which is then open to opposition for 2 months, after which, if not opposed and upon the payment of the sealing fee, the patent promptly issues. If the complete specification be filed in the first instance, the patent usually issues in between 3 and 4 months from the date of filing (provided the examiner does not cite any prior specification which would cause a delay of a month or two on account of the necessary amendment), between 1 and 2 months being officially occupied in examining and accepting the specification, and 2 months allowed for opposition. The following is a schedule of the principal fees: On filing an application for provisional protection, £1; on filing complete specification where provisional specification has been filed, £3; or on filing complete specification in the first instance, £4; on sealing of a patent, £1.

To maintain a British patent in force after the fourth year from the date of the patent (which is the date of filing) a fee of £5 must be paid before the expiration of such fourth year, and a subsequent fee must be paid each year thereafter up to the end of the term of the patent, said fee increasing £1 for each year.

**Canada.**—The following fees shall be payable before an application for any of the purposes herein mentioned shall be received by the commissioner of patents: Full fee for full term of 18 years, \$60; partial fee for 12 years, \$40; partial fee for 6 years, \$20; fee for further term of 12 years, \$40; on lodging a caveat, \$5; on asking a judgment *pro tanto* (for so much), \$4; on asking to register an assignment, or to attach a disclaimer to a patent, \$2; on asking for a copy of patent with specification, \$4; on petition to reissue a patent after surrender, \$4.

**Argentine Republic.**—Patents may be granted for a term of 5, 10, or 15 years, the fees therefor being respectively \$80, \$200, and \$350. These fees may be paid in their entirety upon filing the application, or one-half may be paid at the time of application and the balance by annuities, in the following manner: In the case of 5-year patents, in 3 annuities of \$10 each, and the last one of \$11.33; in the case of 10-year patents, in 7 annuities of \$10 each, and the last two of \$16.66;

in the case of 15-year patents, in 10 annuities of \$10 each, and the last four of \$20.21 each. An annual tax is to be paid.

**Austria.**—A fee of 10 florins must be paid simultaneously with the filing of the application for a patent, and a further fee, the first annuity of 20 florins, within 3 months from the date of publication of the application in the Patent Journal. Annual taxes must be paid on the patent. These amount to 25 florins for the second year, 30 florins for the third year, and increase at the rate of 10 florins per year for the fourth, fifth, and sixth years. Beginning with the seventh and ending with the tenth year they increase at the rate of 20 florins per year, and thereafter at the rate of 40 florins per year.

**Belgium.**—The application must be accompanied by the receipt for the first annuity, 10 francs. There are annual taxes payable on patents, amounting to 20 francs for the second year, 30 francs for the third year, and so on, increasing 10 francs for each successive year.

**Brazil.**—The government fee for a simple patent is about \$25. Yearly taxes are payable on patents, amounting to \$30 for the second year, \$40 for the third year, and so on, increasing \$10 each year to the end of the term of the patent (15 years).

**Chile.**—The government fee for a patent is 50 pesos payable upon filing the application and a further fee of 50 pesos before the issue of the patent. There are no annuities to pay.

**Denmark.**—The filing fee for an application for a patent is 20 crowns. Fee for issuing a patent is 10 crowns. A patent is subject to an annual tax amounting to: 25 crowns for the first three years; 50 crowns for the following three years; 100 crowns for the following three years; 200 crowns for the following three years; and 300 crowns for each of the last three years.

**France.**—The first annuity of 100 francs must be paid at the time of filing the application. Patents are subject to an annual tax of 100 francs each year.

**Germany.**—The government fees are 20 marks payable at the time of filing the application and the first annuity of 30 marks payable within two months from the date of publication of the application in the Imperial Gazette. Annuities are payable on patents, amounting to 50 marks for the second year and increasing 50 marks for each succeeding year. An annual tax is to be paid.

**Hungary.**—There are two kinds of patents: (a) patents of invention and (b) patents of addition. Both are granted for 15 years and start from the date of filing. Patents of improvements are granted to owner of the principal patent, during the first year after the grant of the original patent, and thereafter to any one whether such owner or



not. Fee for filing both kinds of patents, 20 crowns. Annual tax for patents of invention: first year, 40 crowns; second year, 50 crowns; third year, 60 crowns; fourth year, 70 crowns; fifth year, 80 crowns; sixth year, 100 crowns; seventh year, 120 crowns; eighth year, 140 crowns; ninth year, 160 crowns; tenth year, 200 crowns; eleventh year, 250 crowns; twelfth year, 300 crowns; thirteenth year, 350 crowns; fourteenth year, 500 crowns. Single tax for "patents of addition," 40 crowns over and above the fee for filing.

**Italy.**—There are two kinds of patents: (a) patents of invention; (b) patents of addition. Patents of invention are granted for from 1 to 15 years at option of the applicant, and when granted for less than 15 years may be prolonged to the end of 15 years from the date of application for the original patent. Patents of addition are granted only to the owner of the original patent and for improvement thereon. They become part of the original patent. Taxes: For patents of invention, 40 lire for each of the first three years and 10 lire for each year for which the application is made (whether a patent of invention or patent of prolongation). Further taxes: 65 lire for each of the fourth, fifth, and sixth years; 90 lire for each of the seventh, eighth, and ninth years; 115 lire for each of the tenth, eleventh, and twelfth years; and 140 lire for each of the thirteenth to fifteenth years. For patents of addition there is a single fee of 20 lire.

**Mexico.**—Patents of invention are granted for a term of 20 years from the date of filing of the application. This term is divided into two parts; the first of one year, for which the fee is \$5, and the second, of 19 years, for which the fee is \$35. Patents for industrial models and designs, which correspond to a certain extent with design patents in the United States, are granted for terms of 5 or 10 years at the option of the applicant, but cannot be extended. The fees for these patents are \$5, and \$10, respectively. There are no annual taxes and working is not required, but if the invention is not worked within 3 years from the date of the patent, or working is suspended for 3 months, the Patent Office may grant licenses to others to practice the invention, one-half of the profits to go to the owner of the patent.

**Norway.**—There are two kinds of patents: (a) patents of invention; term, 15 years, dating from filing of the application, and (b) patents of addition; term, for unexpired term of the original patent. They are granted only to the owner of the original patent and for improvement on the invention covered thereby. Taxes: For patents of invention, 30 crowns (payable at time of filing the application and constituting also the first annuity), second annuity, 10 crowns; third annuity, 15 crowns; increasing 5 crowns for each year of the patent. For patents of addition there is but one fee, 30 crowns, payable at time of filing the application.

## 510 GOVERNMENT FEES FOR PATENTS,

**Spain.**—There are two kinds of patents: (*a*) patents of invention, of which the term is 20 years, and are obtainable for inventions which are not in use or known in Spain or elsewhere at the time of application. These patents may be obtained even where the invention is in use or is known when the applicant has filed an application for patent in his own country and files his Spanish application within 12 months from the date of filing in his own country, and (*b*) patents of introduction, of which the term is 5 years, and which are obtainable where the invention although not in use in Spain, is known elsewhere. Taxes: 10 pesetas for the first year; 20 pesetas for the second year; increasing 10 pesetas for each succeeding year. There is a discount for annuities paid in advance.

**Sweden.**—There are two kinds of patents: (*a*) patents of invention, term 15 years; and (*b*) patents of addition, term same as that of original patent, granted to owner of original patent and for improvement on same invention covered thereby. Fees: for patents of invention; filing fee, 20 crowns; filing certificate, 2 crowns; stamp duty on patent, 10 crowns. Annuities, for each of the second, third, fourth, and fifth years, 25 crowns; for each of the ensuing 5 years, 50 crowns; and for each of the remaining 5 years, 75 crowns. Patents of addition are subject to the same fees as patents of inventions, except that there are no annuities payable thereon.

**Switzerland.**—There are two kinds of patents: (*a*) patents of invention (or complete patents), and (*b*) patents of addition. Complete patents are granted only where the article in respect of which the patent is sought is actually in existence, and proof of this fact must be produced. Term, 15 years, dating from date of application. Where the article in respect of which the patent is sought is not in existence, provisional patents may be obtained, their term being limited to three years, within which period they may be transformed into complete patents by producing proof of the existence of the article. Patents of addition are granted only to the owner of the principal patent, expire therewith, and are for improvements on the invention covered by the principal patent. Fees: For filing, 20 francs; first annuity (payable in advance), 20 francs; second annuity (payable within 3 months from date of allowance), 30 francs; and increasing each year thereafter at the rate of 10 francs each year. Patents of addition require only the filing fee (20 francs).



### COPYRIGHT

**United States.**—The fees payable to the librarian of congress are as follows: For recording the title or description of any copyright book or other article, 50 cents, or, in case the article be the production of a person not a citizen or resident of the United States, \$1; for every copy under seal of such record actually given the person claiming the copyright, or his assignee, 50 cents; for recording and certifying any instrument of writing for the assignment of a copyright, \$1; for every copy of an assignment, \$1.

**Great Britain.**—A fee of 5 shillings is charged for the registration of a book or other article to be copyrighted, 5 shillings for a certified copy of each entry, and 1 shilling for searches.

**Canada.**—The following fees shall be paid to the minister of agriculture before any application for any of the purposes herein mentioned is received: On registering a copyright, \$1; on registering an interim copyright, 50 cents; on registering a temporary copyright, 50 cents; on registering an assignment, \$1; for a certified copy of registration, 50 cents.

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### TRADE-MARKS

**United States.**—The fee for registration of a trade-mark is \$10, payable into the treasury of the United States.

**Great Britain.**—There shall be paid, in respect of applications and registrations of trade-marks, such fees as may from time to time, with the sanction of the treasury, be prescribed by the board of trade. At present the fees are as follows: On filing the application for registration, 5 shillings; for registration, 1 pound.

**Canada.**—The fees for registration of trade-marks with the minister of agriculture are as follows: For general trade-mark, \$30; for specific trade-mark, \$25; for the renewal of the latter, \$20; for registering industrial design, \$5. All fees are payable in advance; but if the application for registration of trade-mark be refused, the fee, less \$5, will be returned. In case of refusal of an application for industrial design, the fee, less \$2, will be returned.

**Austria.**—The fee registration is 5 gulden; for renewal, 5 gulden; for transfer, 5 gulden.

**Belgium.**—For each mark deposited in the office of the tribunal of commerce a tax of 10 francs is paid. The deposit is received only on the production of a receipt proving the payment of the tax

## 512 GOVERNMENT FEES FOR PATENTS

**Hungary.**—The fee for registration is 5 florins; for renewal, 5 florins.

**France.**—The entire cost of government fees for registering a mark amount to about 10 francs.

**Germany.**—The fees are: for registration, 30 marks (about \$7.20); for renewal of the registration, 10 marks (about \$2.40).

**Japan.**—Applicants for registration of trade-marks must pay the following fees, provided that, in case their application be rejected, the money will be refunded: For registration of each mark, 10 yen, or if the same mark is to be applied to articles of different classes, 5 yen for each class; for application for transfer, for alteration, or for renewal, 5 yen; for obtaining a fresh certificate of registration, 1 yen.

**Sweden.**—The fee for registration is 40 crowns (about \$10.75); for renewal, 10 crowns (about \$2.70).

**Switzerland.**—The fee for registration is 20 francs (about \$4); for renewal, 20 francs (about \$4).

**NOTE.—Value of Foreign Coins.**—Foreign coins mentioned above have values in United States money as follows: The *pound* (£) in Great Britain equals \$4.866½, and the *shilling* 24 cents. The *franc* in France, Belgium, and Switzerland, the *lira* in Italy, and the *peseta* in Spain are each equal to 19.3 cents; the *crown* in Denmark, Norway, and Sweden equals 26.8 cents; the *yen* in Japan equals 49.8 cents; the *florin* in Austria and Hungary equals 48.5 cents; the *mark* in Germany equals 23.8 cents; the *guilder* in Austria is the same as a *florin*, 48.5 cents; the *peso* in Chile is 36.5 cents.





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